

# ADMINISTRATION'S TRADE AGENDA

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## HEARING

BEFORE THE

### COMMITTEE ON FINANCE

### UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

—————  
MARCH 5, 2003  
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## ADMINISTRATION'S TRADE AGENDA

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WEDNESDAY, MARCH 5, 2003

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

The hearing was convened, pursuant to notice, at 10:05 a.m., in room 215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Nickles, Lott, Snowe, Kyl, Thomas, Smith, Baucus, Rockefeller, Breaux, Conrad, Bingaman, and Lincoln.

### **OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. I welcome everybody to the committee hearing. We are glad to have a hearing on one of the most important subjects that this committee deals with, the whole issue of international trade. I also hope that, subject to our getting a quorum, that we will be able to report favorably the administration's nominees to the International Trade Commission.

This year marks a new era in U.S. trade policy. It was not that long ago that our trade agenda was very much stalled, bogged down by the inability to pass trade promotion authority.

While the United States sat on the sidelines, other nations moved ahead, and I think in the process leaving our farmers and our workers at a disadvantage in the international marketplace.

Passage of trade promotion authority last year under Senator Baucus' leadership changed all that. I think that we are now back in this game of international trade and negotiation.

It is clear that the Bush administration is using trade promotion authority aggressively. Since it was signed into law last August, the administration completed two longstanding trade negotiations with Chile and Singapore, and they have also initiated negotiations with Morocco, Australia, the South Africa Customs Union, and five nations of Central America.

Now, this is all in addition to ongoing negotiations to complete Free Trade Areas of the Americas and negotiations under the auspices of the World Trade Organization.

So I think it is fair to say, in short, that this administration is now engaged in more international trade talks than any other in the entire history of our Nation, and I applaud the efforts of this administration.

There is one area, however, where the administration has not been as aggressive as I think they should be, and I think there is

a common consensus, not very aggressive. That is using the WTO dispute settlement on behalf of American agriculture.

Here, I am profoundly disappointed. I simply cannot understand the administration's decision to delay bringing a WTO case against the European Union on biotech policies. This decision directly impacts American agriculture.

I have seen estimates that we lose \$300 million in agricultural sales each year because of European Union policies. Every day that we delay, the market value of our biotech products diminishes as new products enter the marketplace to compete with existing biotech products.

So, it is very clear, under this scenario of the economy of biotechnology and improving biotechnology, that once a biotech product's economic growth cycle is gone, it is gone forever.

The European Union policies also create a chilling effect on the approval and sale of biotech products around the world, especially in developing countries which fear that, once they start using biotech crops, they will lose the ability to sell to the European Union.

Somehow, the starvation of tens of thousands of people does not seem to matter to anybody in Europe, if there is food sitting there for people to consume and not die. I do not know how people can be so unconcerned about the humanitarian needs of people in this world. That is a perfect example of unconcern.

So I say the status quo in this area is totally unacceptable, but I also say that the administration must do something, and do it soon. I hope the administration will do the right thing. I hope the administration will bring a case in the WTO to stop the EU's unjustified policies.

I would also like to see the administration take a more aggressive stance towards China's implementation of its WTO commitments. Here, China's commitment to the WTO rules has, in many ways, been woefully inadequate, especially the way it allocates its agricultural tariff rate quotas.

I am also concerned about China's biotechnology regulations and their potential impact on U.S. soybean exports, as well as a host of other problems. I do appreciate Ambassador Zoellick's efforts in raising these issues during his recent visit to China, but I hope that you can still do more to ensure that China lives by its commitments, including bringing WTO cases, if necessary.

I also understand, Ambassador Zoellick, from your written testimony, that President Bush is very interested in graduating Russia from Jackson-Vanik under the Trade Act of 1974. I support the administration's goals. However, there are a number of concerns that I have with Russia that go beyond this issue.

These concerns are not so much directed at you, Ambassador Zoellick, as they are at the Russian government. Recently, Russia placed a safeguard action on poultry products, along with tariff rate quotas on beef and pork imports.

Russia's actions send the wrong signal at the very time the President of the United States would like to move forward with showing the Russian people and President Putin that we want improving relations with Russia, and that trade is one way to enhance those.

A litmus test of that improvement in trade would be dealing with Jackson-Vanik.

However, these measures dent my confidence in Russia's enthusiasm for fully embracing the changes necessary for WTO accession. Further, energy pricing issues, non-tariff barriers, and administrative road blocks continue to hamper our ability to put full trust in Russia's accession.

While not linked to legislation graduating Russia from Jackson-Vanik, Russia's stance on these issues creates an unfavorable political dynamic in the Congress because this Congress has to be able to move this legislation, and particularly doing it soon.

So Russia, I think, should reconsider some of these actions so the climate in Congress is favorable to Jackson-Vanik. I would like the Russians to help me in this process of moving legislation.

Finally, I want to make it clear that, while I support the administration's efforts to negotiate new bilateral and multilateral free trade agreements, we cannot let these agreements supplant our efforts in the WTO.

To me, the number one goal is successful completion of the Doha Round, and that is very critical, not only to the growth of the American economy, but helping the entire world economy to grow.

At the heart of these negotiations, I believe, is agriculture. I think that is commonly agreed by everybody in the United States, and not just us farmers. Without significant movement on agricultural liberalization, I fear that global trade talks are doomed.

We cannot allow that to happen, of course, not only for agriculture, but for the process of peace around the world, as trade is so essential to the promotion of peace.

Let me be clear. Europe's resistance to true agricultural liberalization threatens global trade talks. We need to see greater flexibility from the European Union on these issues, and more importantly, we need to see it right away.

So, Ambassador Zoellick, passage of trade promotion authority brings you, the American people, and the President of the United States tremendous opportunities to lead. I think we are leading, but it also brings new challenges.

I look forward to working with you to resolve these bilateral trade disputes and to make sure that U.S. international trade policy works on behalf of American workers, farmers, and the consumers that benefit. Thank you very much.

Senator Baucus?

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

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Ambassador, thank you very much for coming today. I know how busy you are. I appreciate your taking the time to be with us.

I am going to start, again, with where the Chairman left off, and that is with agriculture. You know as well as I the importance of agriculture and the difficulty getting a successful agricultural agreement.

As far as I am concerned—I think you know this already—I personally think that the Harbenson proposal is a bad one. It is not good. That is, it essentially follows the same path in agriculture

that we have been pursuing in the past, namely, in effect, of percentage reductions in subsidies instead of an absolute level playing field between, say, the Europeans and the United States.

That is something I am going to be following very closely. My guess is that many members of this committee, if not most members of this committee, are going to be following it very closely. Certainly the Chairman will be, and I will as well.

I just urge you, very, very strongly. I know it is tough, it takes a lot of creative work, but that is our job, to find a solution to get those agricultural subsidies in here way down, to give our farmers a chance.

I need not tell you that in many parts of America, rural parts of America, the per capita income is declining. In my State of Montana, for example, our State per capita income, statewide, is about 47th, 48th in the Nation. We were 10th back in 1946. We are down to about 47th, 48th.

It is due to a whole host of reasons, but a lot of it is agricultural, a lot of it is commodities. A lot of it is that other countries just subsidize so much more than do we Americans, that it is putting our people off the farm. Many counties are losing population, and much of it is because they cannot get a decent price for their products.

Second, I am a bit disturbed that the United States is not standing up for its rights. We are giving in in too many areas. We are being too nice, if you will.

One, is not bringing an action before the WTO and GMO. I do not know any objective commentator who believes that we would not prevail at the WTO. That is virtually a slam dunk. Yet, the United States is not bringing an action before the WTO, and I, for the life of me, cannot understand why.

The only possible explanation that comes to my mind, is it is politics. It is State Department, or White House. It is not standing up for American agriculture. It is pursuing some grandiose, worldwide design that the State Department or the White House sort of just has with all countries of the world.

I bet it has something to do with Iraq, to be honest about it. It might have something to do with our relationship with Europe at this point, which is not in the best shape. But that is not the reason for not bringing the WTO action when, at the same time, the Europeans are using the WTO to the full hilt against us.

The FSC ETI is a perfect example. There is a long list where they are using the WTO to stand up for their rights, even though I think, on that particular issue, it is misplaced. But that is another matter.

It is also true that most European free trade agreements could not stand muster with the WTO if the United States were to challenge them, because they do not include agriculture, those many European agreements.

There are 30-some agreements that the Europeans have with other countries that do not include agriculture, and therefore do not pass muster in the WTO. That is, they could be successfully challenged.

But we are not challenging them. Why? Why are we not standing up for our rights as Americans and using WTO like other countries use WTO in standing up for their rights? It is quite distressing,



frankly, that the United States is not doing what I think it should do. I think most Americans would agree with that statement.

A couple of other matters I would like to mention to you. One, is on a more general matter. I question the priorities the administration has in choosing trade agreements. There seems to be no real rationale, with Morocco here, Chile there. Why are we not looking more at countries where there is much more bang for the buck? That is, where there is much greater economic and commercial opportunity?

Asian countries, for example. I know the usual answer is, well, that is just hard. There are kind of protections. But a lot of countries would very much like to have a free trade agreement with the United States. It increases their prestige, increases their business opportunities.

I think we, as Americans, should be setting better priorities in commencing negotiations and the priorities should be much more based on our economic opportunity, not just other reasons which escape me.

I would also add that I think it is time for us in the United States to much more aggressively look at the Middle East, look at Middle Eastern countries, with some kind of a free trade agreement, or maybe to pursue some kind of Andean Trade Preferences Act arrangement in the Middle East.

Of course, with a different name, but something that kind of helps the economic opportunity in those countries, as well as the economic opportunity of the United States.

I am very surprised that the President has not suggested anything like that. He talks about bombing Iraq, and he talks about democratizing countries, but it is all talk so far.

I do not see any follow-up with respect to how to get economic opportunity growing and developing in that part of the world. I think that would make some sense that we should pursue, instead of the hit-and-miss that we seem to be following.

I might add, too, that one easy area where we could open up trade without a lot of negotiations, but with a mere stroke of a pen, is Cuba. I believe that we should eliminate the embargo.

That would create significant opportunity for American agriculture, for other American businesses, as well as for the Cubans. It makes no sense, in my judgment, to maintain that embargo. I urge the administration to look favorably upon it.

I know there are some reasons that the administration is opposed to it. Some of it is political. There are some interests in the United States which are opposed to it which I think have a unnecessary, if you will, sort of veto power over U.S. policy in that area.

But I think we should do what is right, and what is right is to end the embargo. It is about time. It has been 40-some years, at least. Let us get on with it and let us show that we are truly opening up trade to the world.

Thank you.

The CHAIRMAN. Ambassador Zoellick, we will start with you. But it is my hope that we get one more member, and we are going to interrupt you right in the middle of your testimony if that one member shows up.

So, would you please proceed? Thank you very much for coming.

**STATEMENT OF HON. ROBERT ZOELLICK, U.S. TRADE  
REPRESENTATIVE, WASHINGTON, DC**

Mr. ZOELLICK. Thank you, Mr. Chairman. I want to compliment you. As I mentioned earlier, I heard there was a nice report on National Public Radio this morning about your defense of agricultural interests, and being a Republican populist.

And, just for the record, as the Chairman asked, do I listen to NPR? No, but I have an active staff. [Laughter.] And I want to thank you and Senator Baucus, and all the members of this committee, for their very hard work on the Trade Act of 2002, including trade promotion authority. I know this required some heavy lifting.

As I mentioned to some of you in some private conversations, given the overall international context that we are in, it is very important that the United States has the ability to engage in trade negotiations around the world. It really gives us an important edge.

It does not obviously solve all the problems, as we will discuss today, but it certainly gives us a foundation for going forward.

I tried, in addition to giving you testimony, to prepare a little bit more of a user-friendly overview for you today.

I am delighted to see that Senator Breaux has joined the other side of the aisle.

Senator BREAUX. They cannot afford me. [Laughter.]

Mr. ZOELLICK. Can we rent? [Laughter.]

Senator BREAUX. Possibly. Temporarily. [Laughter.]

Mr. ZOELLICK. And what I tried to put together is just a little overview for you. As you both mentioned, what we are trying to do with our overall approach is move on multiple levels, global, regional, and bilateral.

The idea here is really that the United States starts out with about 25 percent of the world's economy, so how can we leverage that more for U.S. interests? And I agree with all the statements about the strong focus on the WTO.

On the other hand, we do not want to allow one country to veto our trade policy. If there are 144 countries and one stops us, we need to be able to move forward. I actually believe it will help us move forward on the global issues if we can show we can move elsewhere if stuck.

So, fundamentally, with your strong help and support, we are now in a position where the United States can help set the pace as opposed to be reactive.

On the next page, overall, what I think we have been able to do is regain momentum, both at home and abroad, for U.S. leadership. But we have also done this in a way that has tried to broaden our message.

In addition to talk about growth in business and jobs, we have talked about development, rule of law, open societies. Senator Lincoln and I talked about this, I think, the last time that I was up.

We tried to also connect trade to some broader concepts of security after 9/11. I am not a person who believes that terrorism is caused by poverty. You look at the background of the terrorists, it is hard to make that case.

But there is no doubt, if you look at Southeast Asia, or you look at sub-Saharan Africa, or the Middle East in the Gulf, and you find

fertile fields for terrorism. So we have to create an environment of opportunity and hope, as I have talked about with Senator Baucus on some of his ideas on the Mideast and the Gulf.

And you mentioned our Morocco agreement. That is one important part, just like our Jordan agreement. I read a report this morning about the active efforts of the King against terrorism, trying to move Morocco in a modernized society.

When I was there I saw the micro-lending program they have for bringing women into the economy. So, it is an important part of what we need to do.

But we also have to look beyond the immediate security issues. The President gave a speech at AEI recently, where I think, looking ahead, we have to focus on the bigger questions of open versus closed societies, and creating versus destroying, and I think trade can be a part of that.

Now, just looking real quickly, with your help and in many cases leadership, at what we got done over the past 18 months or so. The Trade Act of 2002 not only included trade promotion authority, but it included some very important preferential agreements, like Senator Baucus mentioned, in other areas.

The Andean Trade Preference Act, which we not only extended, but expanded, is absolutely critical if you look at what is going on in places like Colombia, Peru, and Bolivia. So, we got that just in time.

The AGOA 2, the African Growth and Opportunity Act. I was with some members of the House at an AGOA forum in Africa in January of this year. I can report to you that the fact that they saw the members of Congress listening to the need for change in that bill, and that you passed amendments, was something that was extremely important in a part of the world that, frankly, has been left out of the trading system, but now you have got some people trying to become part of it.

The Generalized System of Preference extension, which covers some 140 developing countries. Again, with a bipartisan effort on this side, this branch, the tripling of the trade adjustment assistance to help people make the adjustment.

We launched a new Doha development agenda in the WTO. Very importantly, going to the point that Senator Baucus was making about opening markets, we completed the accession of China and Taiwan into the WTO.

Congress made a major effort, obviously, with the PNTR vote, but we frankly still did not have China and Taiwan in and we had to cover a lot of issues, some with agricultural subsidies, retail distribution, and others to work that out. Now, as Chairman Grassley mentioned, we have got the hard work of implementation.

We moved the Free Trade Area of the Americas forward to the point where we are now getting concrete negotiations. It is no longer just meetings, but we are starting to exchange offers.

The steel safeguards, which I know has been a controversial topic up here. But I do think we have now had positive developments in the breathing space we have given this industry.

We passed the Jordan free trade agreement, the Vietnam bilateral trade agreement. As the Chairman mentioned, we completed

Singapore and Chile FTAs, both of which were launched in December right before we took office.

Senator Baucus asked where these came from. We inherited them from the Clinton administration, but we are pleased that it shows a good bipartisan effort. We have launched a series of new free trade agreements.

Globally, just a quick sense here. The Doha negotiations were launched in November of 2001. We got 144 members in this process. The next big ministerial meeting will be in Cancun in September, 2003, and the target date for completion is January, 2005.

But with 144 members, a lot of the work gets done in different types of networks. With the help of TPA, what we have tried to do is set the pace at the heart of the negotiations, which is market access.

So, there are lots of parts of this, setting rules and other things. But we wanted to focus on agriculture, industry, and consumer goods and services. That is the heart of what the economy is about.

So, in agriculture, we have proposed the elimination of export subsidies. I was delighted to see that President Chirac of France suggested that they should eliminate export subsidies for Africa. I would ask, if it is good for Africa, why should it not be good for Latin America, and Southeast Asia, and the rest of the world?

Our proposal would cut the world farm tariffs from an average of 60 to 15 percent, agree on a date of eventual tariff elimination, and cut the trade distorting domestic support by some \$100 billion.

A key point that all of you have mentioned is to harmonize, get the European levels, which are about three times ours, down much closer to our levels.

Then similarly, with the consumer and industrial goods, we have a very aggressive proposal to move towards a tariff-free world in 2015. In the first 5 years, we would cut all tariffs under 5 percent. That has a real benefit for a lot of our industrial sector.

There are a lot of tariffs that basically covers about three-quarters of the trade with the United States, Europe, and Japan. I think we have got good, strong business support for that.

Then also, where we have some export sectors that want to move to zero as quickly as possible, we would do those zero-for-zero negotiations.

But the third area I want to draw attention to, because I think it is going to get more focus over time, is the services agenda.

About two-thirds of U.S. GDP is now in services, and about 80 percent of employment, yet the Uruguay Round was the first negotiation to start to cover these. It is interesting.

If you look at Latin America or East Asia's economy, over half of their economies are services as well. It only covers about 20 percent of world trade, but it is an area where you could increasingly see some win-win ventures, for example, with call centers in India and our retail businesses here in the United States.

Frankly, the line between services and manufacturing is increasingly getting blurred. I mean, effective manufacturing industries, as Senator Rockefeller knows, have to actually be tied into the service sector, whether it be in distribution or whether it be how they use information technology.

Free Trade Area of the Americas is the other major negotiation. That involves 34 countries in the western hemisphere. Target for completion is January, 2005. We are now at a point where the United States and Brazil are the co-chairs moving forward.

That is not going to be easy because Brazil is one of the tough players in this process, but I think it is a good thing because if we are going to make this work we have got to have the United States and Brazil pointed in the same direction.

Just last month, we got to the stage where we put forward formal proposals in agriculture, goods, and other areas. The United States tried to come out of the box with some serious proposals.

We have trade preferences with a number of these countries anyway, so we offered some aggressive ideas if we could get others to come along. In Miami, in November of this year, we will have the next ministerial meeting.

Now, the next page talks about bilateral initiatives. As some of you have raised, either directly or indirectly, we get a lot of questions about why we should put bilateral initiatives, so let me just cover a few of these points.

First, we have to level the playing field for American workers and business. As Senator Baucus mentioned, the EU has about 30 to 34 of these agreements already. We have got NAFTA, we have got Israel, and now we have got Jordan.

As the Chair and I worked on in the closing aspects on the Chile negotiation, we made sure that, on agriculture, that everything we got was as good or better as what the Canadians or the European Union already got. So, we are not only trying to catch up, but we are trying to move ahead.

We are also trying to create a competitive dynamic to liberalize. What this aggressive push has started to prompt is other countries coming to us and saying, what do we need to do to get in line for a free trade agreement? So, even before we negotiate, we can try to push liberalization with a number of these countries.

It also allows us to link liberalization to sectoral reforms. Let me use the case of Morocco again. For generations, Morocco has tended to have a lot of grains. Well, frankly, probably the climate has changed over 100 years and it really does not make sense for Morocco to be a grains producer. It is one reason we have support from our grain industry for opening that market.

They probably should move into fruits and vegetables. So, we are working with the World Bank at the same time to try to help them change their agricultural reform as we make our overall effort in terms of opening the market.

There is also a benefit for regional integration and investment. Take Central America. Central America is a pretty big trading partner, about \$20 billion in trade. People do not recognize that as a whole.

But, equally important, this is a region that, frankly, many of you, and I, actually, when I was in government before, worked on some pretty tough issues about trying to deal with insurrections, create the basis for democracy.

You now have five fragile democracies trying to pull together, and they are looking to the United States to help them with their own integration, but also to solidify democracy.

But the same is true in Southern Africa. The Southern African Customs Union brings together five economies. Take one like Botswana. They have had one of the longstanding, multiparty democracies in Africa. It is a very well-run economy.

But it only has about two million people. They are not going to be able to make it, just with that size economy. They need to be linked in with the regional economy.

It also creates allies for us in the WTO and FTAA talks. Again, as some of you have alluded to, the countries we have worked with on these free trade agreements actually become some of our best partners in trying to move ahead the WTO and others.

We all agree that we are frustrated with the European Union. So how do we move them? Well, we partly move them by getting some partners to help us build a coalition, just as you would do in the Congress or on a domestic issue.

But, also, these agreements have been very helpful in terms of breaking new ground and setting higher standards. For example, a number of you have talked with me about the importance of intellectual property. In the Chile and Singapore agreements, we have broken new ground in terms of the digital economy.

If you go back, most of the intellectual property rules came from the 1980's or 1990's when we did the Uruguay Round, yet the whole digital economy has grown up in that period.

So, as I will talk about a little bit, we have set a new standard in terms of digital property rules that I hope we can spread to others. The same with the services industries. The same with e-commerce. That did not exist 10 or 15 years ago.

Also, an issue that a number of you have worked on from both sides of the aisle is environment and labor. We now have workable environmental and labor provisions in these agreements, and I hope we can build on it.

So where do we stand on these? Well, with Singapore and Chile, as the Chairman mentioned, we were able to conclude both of these. We hope for Congressional consideration during the course of this year.

Just to give you a little flavor of the highlights of this, with Chile, 85 percent of the goods would be duty-free immediately. In the agricultural area, within four years we would have 75 percent trade open.

And a critical issue a number of you from agricultural constituencies has mentioned is the price band issue, which frankly they used to use to interfere. We will be the one country that gets rid of the price band.

Something that is also important that I think a number of you have encountered, is it is not only enough to reduce the formal barriers, but you now deal with the sanitary and phytosanitary standards, and some of the other ways of interfering with trade.

As part of this agreement, Chile will basically be accepting our dairy and our meat standards, so our inspections standards will work. We will not have to create a separate system. But yet, for some of the sensitive crops we have in vegetables, we have created a special agricultural safeguard.

With Singapore, it is a pretty open economy, but it has had a lot of government-linked corporations. So we have created a special

competitive part to make sure we get fair treatment with that. And it is a major port.

So we have worked out some excellent provisions dealing with Customs to deal with transshipment issues, everything from textiles to, frankly, issues of concern, but also at the same time doing some things for some of our express delivery companies to facilitate their business.

Also, in an area where the Chairman and I have a strong interest, and Senator Baucus, agreeing about the possibility of biotech patents.

In both of these, we move to services in what is called the negative list. This is very important. Frankly, when we inherited this process, it was not a negative list.

What a negative list means, is that everything is covered unless you take it off. A positive list, which is the way it is done in the WTO, is you have to negotiate to put something in. So we talked to the business community. They really pressed us to do the negative list, and that is what we have in here.

Another area that is really important in services, and you know this from the U.S. experience, is how regulations affect the services industry become critical. We basically now have, through these agreements, the principles of our Administrative Procedures Act, so when they change a regulation they put it out for notice, they put it out for comment, they have to have reviews of different types.

This is something actually we wish we had a little bit more transparency with with the European Union's process, but we hope this will move forward.

I mentioned the digital age IPR. Let me just give a couple of examples. As many of you know, the real problem is enforcement and making sure that these products are not stolen. So we negotiate, in both of these agreements, statutory damages. You do not have to prove the real damages. They will go back and have statutory damages.

We have criminal penalties for end user piracy. We have remedies for efforts to use technology to circumvent. Government software is all supposed to be part of the approved system. So this, I hope, will be a pattern for us in some of the other agreements we move forward.

Investor protection is an area where this committee worked very closely with us to try to reform some of the problems with NAFTA. We got that fixed. Labor and environment, e-commerce. We will, Mr. Chairman, have to work through the normal process we have done with trade agreements about the implementing legislation.

I do not think there will be as much complications as there was with some of the other ones you worked through, but we would pledge to do that with you.

Just to cover the others. Central America. We launched this in January of this year. We got some good interest from our agricultural community, our services community, and others. We will do our best to get it done by the end of this year, following the Chile model. The same with Morocco.

The Southern African Customs Union is going to take a little longer to do. It is a tough task, working with five developing economies that have their own differences in size.

I will just mention, for you and your staffs, we are bringing the trade delegation, negotiating delegation, from these countries here in March and we would like to give them some exposure to kind of how we do things, how you do things. We think it would be beneficial, so we hope you can help us on that.

The same with Australia, which is a pretty big economic partner of the United States, and also one that we know there is sensitivity on agricultural issues, so we have tried to work closely to deal with some of their SPS barriers as we go through.

Finally, just to look ahead and some other things. As the Chairman mentioned, China and Taiwan's WTO accession has been mixed. It has not been an easy process, but given the level of tasks—and I say this for both China and Taiwan. I worked with Senator Breaux on some rice issues with Taiwan that we need to keep moving ahead.

But I came back from China about a week ago, as the Chairman mentioned. Mr. Chairman, I think we are in pretty good shape on the soybeans issue, but we will certainly want to nail it down.

I got good response on agricultural TRQs, but Ambassador Johnson is going to try to follow up in the next couple of weeks and try to go through some of the details. But we hit those points hard. Frankly, I made quite clear the strong attention we have to the possibility of bringing a WTO case if we do not get these fixed.

So, as you know, the real interest is getting the market open, getting it fixed. We are making it clear that we have to get that done right away. But I also talked about some of the other issues, intellectual property, financial services.

But, also, the good news. The Chinese have a very strong interest in our agricultural proposal in the WTO, so we are trying to build them as allies with some of those that are more recalcitrant.

Russia's accession to the WTO. I take the Chairman's points. I agree with most of them. We have got some work to do here. The key point, Mr. Chairman, is I am in full agreement with you about their actions on poultry and meat.

I think it is a step backwards. I think we need to communicate to them that, as they are not a member of the WTO, we have a full range of options to take what actions are appropriate if we do not get this fixed.

The enforcement actions that many of you talked about. Senator Baucus referenced some of these. But also, I will say there is the other side of the coin, and that is compliance with WTO rulings and trade retaliation.

I know that these are not easy topics. My statement covers them in detail, so I will not go through them all. I will just say that, as the biggest trading power in the world, it does serve our National interests to follow through on the rules.

I appreciate the leadership of the Chair and others in trying to resolve some of these problems, and I would be pleased to try to work with you. I know they require threading some needles, and we will do our best with you.

I also want to mention small business. I know Wyoming has a particular interest in this, from talking with the two senators here, and Senator Enzi as well. I now have a detail from the Small Busi-



ness Administration because I wanted to try to get better coordination. It is interesting.

With the Central Americans, it turns out that about 78 percent of the exporters are small- and medium-sized enterprises, over half the value. So one of the things we need to do a better job on, is not only to help our farmers, but help our small business enterprises get brought into this.

A critical area with developing countries is to connect our work with the AID people on capacity building. For some countries, frankly, they need help getting the staffs to negotiate and be able to implement agreements connected to their programs. Here, I really want to thank Andrew Natchios. We have done a good job with AID.

We have also had some good help with the Inter-American Development Bank. And, while the World Bank does nice studies, I wish they would back their words with actions, because they have got a lot of resources that they could help us with on this. So for all of you that are on the Banking Committee, I hope you let the World Bank know that that group should be a priority.

I mentioned a couple of other legislative ideas. AGOA 3 is dealing with some of the issues with the African Growth and Opportunity Act. I wanted to flag this, Mr. Chairman, because the President talked about the need to extend this act. It expires. We hope to try to work with you.

Again, I feel that this is one that, generally, both sides of the aisle have been cooperative on. We have sensitive interests, but I hope we can move this forward.

And I did not want to let one slip that I think has slipped for a long time, the Laos normal trade relations. This agreement was done during the Clinton administration in 1997. It is the only least-developed country without normal trade relations. It is the only country we have normal diplomatic relationships without NTR. So, I hope we can get this one done.

Environment and trade, labor conditions and trade. As I mentioned, this has been a thorny issue for all of us. But I really think the Trade Promotion Act moved a long way for us, and we have tried to keep faith with what we have brought back with these agreements.

But it is just a start because these agreements also have cooperative efforts. I have been delighted we are getting some help from some environmental NGOs working with us with these countries. Again, this is an area where the multilateral development banks can be helpful.

Last, a word on HIV AIDS and the access to medicines and funding. This covers a lot of different issues, but I do think it is an important face of America around the world.

On HIV AIDS, we have tried to help with the overall question of the intellectual property agreement. The United States' proposal for \$15 billion of support is very important.

We are even looking at ways, with our Southern African Customs Union, where we can work with some companies to set best practices, not just pharmaceutical companies, to make this work.

But here is the challenge we face, is that some other countries have tried to very much expand the scope of medicines. We were

willing to cover not only HIV AIDS, tuberculosis, malaria, all infectious diseases, but frankly to cover everything, and then also to cover all countries.

That is going to be the problem we are going to have to keep working through. But I look to your help on this as well, because there is multiple interests here. But I do think we should keep trying to get this done.

So, in conclusion, I want to thank all of you. I know you bring different interests to the table. It has been very helpful for us in terms of making sure, as a representative of all the interests in the economy. We have tried to address many of these topics.

Obviously we have not hit them all. But, in any event, we benefit from your insights and your direction. I know that trade is not an easy issue for many of you back home, so we appreciate your support. So, thank you.

[The prepared statement of Ambassador Zoellick appears in the appendix.]

The CHAIRMAN. Thank you, Ambassador Zoellick.

We will take five-minute turns. This is the order: Grassley, Baucus, Thomas, Bingaman, Kyl, Conrad, Rockefeller, Lott, and Breaux.

As you know, the top market for U.S. exports of high fructose corn syrup, Mexico, has been shut down for nearly 15 months. That is as of now. This has also followed more than 6 years of curtailed trade in that industry.

The discriminatory soda tax, and that is the latest and most severe problem, was passed by the Mexican Congress January of last year. This has brought quite a financial toll to the U.S. corn industry.

The current impasse is not cost-free. It is hurting the bulk of the U.S. sweetener industry. Of the 70,000 U.S. jobs provided by this industry, more than 226,000 are involved in bringing corn-based products to market. So, I think the economic impact is very clear.

While this is critical to the sweetener industry, it also seems to me that it has implications for our trade agenda with Mexico, our broader agricultural trading agenda, that we seek to open global markets and balance export-oriented and import-sensitive industries.

I know you have been very blunt. Let me be, as well. It seems to me, in a recent well-known U.S. agricultural publication, somebody was quoted as saying, "The U.S. corn refining industry is in a deep mess because it believed in NAFTA."

U.S. agriculture, I think, through that statement, seems to be losing faith in new agreements if the promise of existing agreements remain unfulfilled.

So my question to you is about the administration's efforts to ensure that this issue is resolved in the very near term in a manner that upholds the integrity of NAFTA and brings, obviously, trade growth.

Mr. ZOELLICK. Mr. Chairman, as you and I have talked about—and you have been a big help on this—this is a tough issue because it deals with all of the sweetener interests. So, on this committee you have got beets, you have got cane, you have got corn, you have got high fructose corn syrup.

But I think we have sensed from everyone, to one degree or another, that the problem as a whole has just gotten out of control and has got to be fixed. Right now, the corn and the high fructose corn syrup people are really paying the price on this.

So we have had discussions with the Mexicans and we have had discussions with all the segments of the industry about ways to try to resolve this. We made some headway. We are not there yet. I talked to my Mexican colleague about this as recently as last week, and I hope to have some follow-up discussions.

So all I can tell you, Mr. Chairman, is I am committed to doing everything I can to try to get this resolved. When we do, I hope we can also work as a group here, representing the different interests, to recognize that ultimately the problem of never implementing some of the sweetener provisions of NAFTA will also hurt some of the sugar people, because they are starting to get into the Tier II tariff here.

So, we really need to try to figure out a way that works out this market for all the interests. That is what I hope we can do.

The CHAIRMAN. I am also bothered by the Mexican government's interest on the fact that they claim you were dumping pork into their markets. I think it is politically motivated. I think it is a pure attempt to block our exports.

Mexico continues to apply, as you know, unwanted antidumping duties on our beef, rice, apples, and now it is being done to pork. Mexican pork producers have benefitted significantly since NAFTA was signed.

Mexican producers are highly profitable and do not need protection from imported pork. The fact is, they are seeking market access for their pork in the free trade negotiations with Japan.

What is the administration doing to discourage Mexico from applying non-transparent and politically-motivated antidumping duties on pork, especially in light of their efforts to enhance their position as a pork exporter?

Mr. ZOELLICK. Well, Mr. Chairman, as you point out, we have had an accumulation of these agriculture issues, the ones you mentioned, and I think also poultry, too. Part of this is a reflection of the final stages of implementation with NAFTA.

There is a good article in the Wall Street Journal about this today, about how Mexico does have subsidies, but frankly the adjustment has been hardest for some of the smallest farmers.

But I pointed out to my Mexican colleague, we have got to start to get some of these resolved. The poultry one, we do have a temporary safeguard that the industry supports and we will move on from that.

But particularly in the pork area, as you mention, Mr. Chairman, the pork industry is one of our most competitive export industries. They have been very supportive of our trade agenda.

I actually stressed this with my colleague just last week, and we are going to have some follow-up, I think, in a matter of days on this. And our pork industry has also been willing to work with the Mexican pork industry to try to strengthen their ability, so that is one of the items that we are going to try to follow up on. And on another one on apples, the industry has talked about a suspension agreement, I hope we can also clear up.

So, like you, I believe we need to start to clear some of these up, and I hope we can do so, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Baucus?

Senator BAUCUS. Mr. Ambassador, I have a question that really has two parts to it. Basically, why are we not bringing more cases that we can win to the WTO? Why are we sitting on our heels?

Second, what can be done to "reform" the dispute panel mechanism at the WTO? As you know, we have won some cases and we have lost some cases. Those that we have won tend to be fairly minor. Those that we have lost tend to be major.

They are major in the sense that they undermine our trade laws, laws that are legal, that are totally WTO-compatible, and laws that we negotiated in the WTO. Yet, the WTO panels undermine U.S. laws.

So the question is, number one, why are we not bringing more cases that we should bring? GMO is one that comes to mind. Second, what are we doing to "reform" these panels which undermine legal, negotiated U.S. trade laws?

Let me throw in there my idea of the commission. It is somewhat similar, not exactly the same, as the commission suggested earlier a few years ago, where we have the United States have some judges, maybe Article 3 judges, retired, look at trade decisions made by the WTO to determine whether they think they are correct or not, and not, as was suggested earlier, kind of a "three strikes and you are out," and the U.S. Congress votes on whether to stay in WTO or not.

But something to give the American people a little more confidence that we, as Americans, are getting treated fairly by these panelists. I think there is a very strong feeling among those who watch these panelists somewhat closely that we are not being treated fairly.

There is also an underlying, deeper sense among Americans who do not follow these panel decisions closely, just kind of a feeling that somehow we are being a sucker on trade, we are being pushed around on trade, that trade does not really work to our advantage. I think there is a deep, underlying feeling among a lot of Americans about that. So, those are the two questions.

Mr. ZOELLICK. All right. Well, first, I realize people often look at the cases you lose more. But, just for the record, we brought 38 cases offensively, of which we settled 19, won 16, lost 3.

We have had 36 defensively, so it has been about the same: we have resolved 12, won 3, and moved 21 through various aspects that have been inconsistent. Some did not require legislative fixes. It is about an even focus on that.

But I take your point about some of the cases going forward. Let me speak about biotech.

Senator BAUCUS. Also, if you could address safeguard steel. There are a whole bunch of areas where the panel has overreached.

Mr. ZOELLICK. I will come to that.

Senator BAUCUS. Thank you.

Mr. ZOELLICK. On biotech, my views are rather clear on this subject, as you know. I think I was pleased to see that the French Academies of Science and Medicine, two separate academies, sup-

ported lifting the ban on GMO—and I repeat, French academics. It is a 4-year violation. I agree with what the Chairman and Senator have said.

But I also think the bigger issue here is what it is blocking in terms of agriculture, not just for us, but for the developing world, in terms of nutrition, ways of dealing with the environment more safely, dealing with hunger and health questions.

I was in Southern Africa and saw a farmer that has about a 10 or 12 hectares of cotton that got a 33 percent increase from biotech cotton. So, like you, I think this is not only a business and export question, I think it is the future of agriculture for much of the world question.

I was pleased that after my statements, that there is a group of African scientists in Brussels that were sort of making this case, and said the United States should bring a case.

There was a meeting recently of countries in APEC where they are making the same point. I think this is the key point. I think we all agree that they have got to lift the moratorium. How do we now make that happen? One of the things that I would be happy to share with you, is I am trying to build a coalition on this.

I do not want this just to be U.S.-EU. I want to try to have other countries with us in different ways on this, frankly, to make this a public case about GMOs and its benefits, not just a legal case as we go forward. We are trying to determine the most expeditious way to do so. But I assure you, I am as aggressive on this issue as you are.

Senator BAUCUS. I might say, though, that is sort of one of, if not flaws, certainly the premise of that point is that this is a negotiated solution. It is not, it is a legal solution. That is, you are going to the WTO. You do not need to build a consensus among other countries.

All the experts agree, you mentioned the Belgians, the French, and others, for example, who agree that Europe is in violation. So I do not see why you have to go around. My real question is, when are you going to bring the case? When are you going to bring it?

Mr. ZOELLICK. Senator, can I try to finish the answer? Because I do not want to leave you with a misimpression.

When I was talking about countries I was not talking about negotiation. I was talking about countries that would join with us in a case.

Senator BAUCUS. All right. But when are you going to bring it?

Mr. ZOELLICK. I do not know when we will bring the case, Senator.

Senator BAUCUS. What is your best guess?

Mr. ZOELLICK. I hope, soon.

Senator BAUCUS. Meaning weeks, months?

Mr. ZOELLICK. Senator, I have told you what I can tell you.

Senator BAUCUS. But I think I understand. Who in the administration is saying no? Who outside the USTR is saying, Mr. Ambassador, we hear what you want to do, but for other, bigger reasons, we say no? Who is it, the State Department? Is it the White House? Who is it that is telling you not to do this?

Mr. ZOELLICK. Senator, obviously we are at a time where there is a lot going on in the international context. Everyone shares this

view with me in the administration about the need to get this moratorium lifted, including by bringing a case, if appropriate and necessary. I have made my view on that.

I do not really see anybody disagreeing about that approach. This is an important point that I want to come back to, Senator. If and when we bring a case, it should not just be a legal matter. What we have to do is win the debate about biotech and world public opinion.

Just as recently as this week, I was talking with an African minister, because I want to try to make this as broad-based as possible in terms of the support. So, I hope we can work together to move it forward.

Senator BAUCUS. Well, Mr. Ambassador, I hear a lot of words. I do not hear any action, and that is distressing.

Mr. ZOELLICK. I know the red light is on. Should I take time to try to address the Senator's other questions?

Senator BAUCUS. It is not necessary. You did not answer my other question, but we will get to that later. That is all right. Time is up.

The CHAIRMAN. Senator Thomas?

Senator THOMAS. Thank you, Mr. Chairman.

Mr. Ambassador, glad to have you here. This is the first time since I have been on this committee that we have been able to talk about these issues, so it is very, very interesting.

I have been dealing with specific issues, and you have helped us very much on the tuna thing in India, on the lamb thing in New Zealand, and we appreciate that. But I hope to be able to get more involved as the Chairman of the Subcommittee on Trade, so I look forward to working with you.

I notice in the Chile and Singapore trade agreements, that of the 30 advisory committees, only one found a problem with it. Is that an unusually good system? If so, what was it about it that you could use somewhere else?

Mr. ZOELLICK. Well, the Chairman actually launched a GAO process about ways to try to improve that system, which we have responded to, and I will be happy to brief you on it. I think the advisory committee system is very important for us.

We operate at different levels. Some of them are quite technical, some of them more policy level. We were delighted, Senator, that we had that broad a base of support, including from the environmental group. We did not get the labor group. Despite our efforts to bring labor issues into these agreements, the unions continue to be protectionist. There is no way to say it other than that.

So I hope that, even where we have sensitive issues, for example, with some of the vegetables, we learn some ideas about doing special safeguards. So USTR, by its nature, is a small place. We really have to network with others to try to get the information, and these advisory committees are very useful for us.

Senator THOMAS. Now a very broad question. I know it is a tough one, because most of us would like to focus a little more on individual issues. What do you think are the major reasons that we have such a huge trade deficit?

Mr. ZOELLICK. It is a good question, and one I get a lot. What it really comes down to—and at the time you saw the most recent

trade deficit numbers you would have seen some of the reporting on this—the two main reasons that economists will focus on are differentials and growth.

So, even though our growth last year was less than we would have wanted, it was about 2.5 percent, Europe's was about 1 percent, South America was under 2 percent. So if we grow more, we are bringing more in than they are. So one key element, frankly, is to try to get more balanced global growth.

The other, is this reflects itself in currencies because that is the relative prices for the various goods. That also deals with the third part of the equation, which is the investment flow.

In other words, every time somebody is selling more to us than we are selling to them, they get dollars. Well, what do they do with the dollars? They hold them in investment securities.

So the other part of this, is if people find the United States a more attractive place to invest, they have got to get the dollars to do that. They hold them in securities. So, there is a debate about the degree to which investment flows drive the trade numbers, and vice versa.

From my point of view, the key would be, given that larger macroeconomic environment, what can we try to do to expand the overall opportunity? Because, an interesting point, export jobs earn about 13 to 18 percent more than regular jobs. Well, why is that? Because they are more competitive. They have to compete globally and they are more productive.

It is also an important area for us in terms of the other side. People do not talk much about imports, but imports also lower prices for people. So when we looked at some of the studies of the Clinton administration and others on the benefits of NAFTA in the Uruguay Round, the benefits for an average family of four, every year, from cutting taxes on what they buy and the added income effect was \$1,300 to \$2,000 a year.

So trade, in a sense, makes the system more efficient. The trade deficit numbers really deal with the macroeconomic flows of growth and currency.

Senator THOMAS. Interesting. Thank you.

The CHAIRMAN. Senator Bingaman, you are next. Thank you.

Senator BINGAMAN. Thank you very much, Mr. Ambassador. Thank you for being here. We produce semiconductors in New Mexico. One of the issues I have been concerned with, is the Chinese government policy of rebating a large part of the value added tax on semiconductors that they manufacture in China to their firms, but they charge the full value added tax on any semiconductors they import from the rest of the world.

I am not expert on the VAT, but my impression is that that is a discriminatory application which violates Article 3 of GATT, and also violates China's WTO commitments. I am just wondering what we are doing about solving this problem.

Mr. ZOELLICK. Well, like you, Senator, we think there could be a problem here under what is called the national treatment, treating foreigners the same as you treat your own people, under rules under the GATT.

So my delegation, when we were in China recently, talked about this, as well as with the Chinese delegation, that talked to the Department of Commerce.

The first reaction of the Chinese was that they were treating U.S. investors the same as their local people. But we said that is not good enough, because we also have it on the U.S. side.

I think they recognized the point, and we are going to follow up and try to press it. But we have all means available, if necessary. But I agree with you, it is an important issue and it is one we are trying to put higher on the charts.

Senator BINGAMAN. I hope you do press the issue. As I say, we do produce semiconductors in New Mexico, and we would like to keep it up. If they continue to discriminate against the products that they import, it is more and more difficult for us to continue to produce semiconductors.

Let me put up a couple of charts here. This first chart relates to our trade balances with Canada and Mexico over the period since prior to NAFTA and up to the present.

A concern I had with NAFTA—I voted with NAFTA—when we first talked about it was that it might lead to an imbalance of trade between ourselves and Mexico and Canada. It seems to me, from this chart, that that is exactly what has happened. The current account deficit that we are running with those two countries has grown pretty much every year.

Let me put up the second chart, then I will ask you a question. The second chart talks more about the maquila industry and tries to show the trends in employment in the maquila industry from 1990 to 2002, and shows the dramatic reduction in employment in the maquila industry in recent years.

My impression is that that is because a lot of those companies are moving that production out of Mexico into China. I would be interested in your assessment of what is actually happening.

We see it in Juarez, for example, right across the U.S.-Mexico border, where hundreds of thousands of people have moved to that border community to work in maquila plants that are now closing, or have recently closed, as those companies found cheaper places to manufacture.

Is that, in fact, what is happening? Do we have any plan to deal with it? How do you factor that in in your negotiation of a Central American agreement? I mean, are we going to have the same thing there where you have a tremendous disruption in the local economy in order to get people employed in factories that are there a few years and then move again? I would be interested in your thoughts on that.

Mr. ZOELLICK. Yes. Those are critical questions, Senator. I am going to link them together, even with your first one, a little bit. What your first chart partly showed, in addition to the numbers, was the fact that you are really creating a much more integrated North American economy. You can see, the numbers go down a little bit.

This goes back to my answer to Senator Thomas, because what is really driving a lot of that was the growth that we had, particularly after the Mexican peso crisis. Frankly, people say, is that good or bad? It was probably good to bring Mexico back from the



peso crisis, whether it be issues of immigration, or support of democracy, or others.

But the big picture that you are focusing on, is we should not just look at this as U.S. with Mexico or Canada, but how the three of us relate to the rest of the world, and Central America, too. Because the real challenge for Mexico is going to be China. This is true for many of the Latin American countries, and particularly in Central America on the issue of apparel.

One of the things that the Congress started to do with the Caribbean Basin initiative, which we have tried to follow up on and we are trying to do with the Central American agreement, is recognizing that all of our quotas on apparel come off in 2004, given the competitive ability of China, how will the rest of the world compete with that?

So we are increasingly starting to integrate our operations, so our business is focusing more on the textile and fabrics, with the apparel being done in Central America or in Mexico.

But, as for the maquiladoras, in particular, I have looked at some of the numbers because I knew of your interests, and I have seen that it has changed a little bit, but it is facing competitive pressure. It is one of the reasons why the trade flows come up and down, is that sometimes we are exporting things into Mexico that are assembled there and sent back to the United States.

But I think this is going to be a challenge, first off, in terms of trying to lessen the rules and impediments in Mexico. In other words, Mexico has got to compete with China on some things, like transparency in a good investment climate, but also things we can do to reduce costs between our two countries.

And I understand there are some business groups that are now looking at this, everything from transportation costs, to some of the paperwork costs, and others. Because what you are seeing in the United States, Mexico, and Central America is how companies source globally and how they operate in multiple companies.

Frankly, the question will be, to what degree will companies do this in China, or what degree will they do it in Mexico, Central America, and Latin America?

That is actually the bigger picture point, Senator Bingaman, about the Free Trade Area of the Americas. We are trying to give the western hemisphere a little bit of a leg up with China, because China will be a fierce competitor. China's competition, in most cases, will be less with us. It will be with other developing countries.

So, I apologize for the short time. I would be happy to come by and talk to you about it more. You are hitting a real key issue.

Senator BINGAMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Now, Senator Kyl.

Senator KYL. Thank you, Mr. Chairman.

Mr. Ambassador, my first question has to do with the Jackson-Vanik law and our treatment of the country of Russia under that law.

I just had a clip from yesterday's Wall Street Journal talking about how some analysts believe Mr. Putin is feeling the heat from

those in Russia who say that Russia is not getting concessions from Washington.

For example, the U.S. has yet to repeal the Jackson-Vanik amendment. One can argue whether it is the chicken or the egg there, but we do know it is important to the Russians, in any event.

I am informed that Senator Lugar, who introduced the legislation for a permanent Jackson-Vanik waiver for Russia in 2001, is preparing to reintroduce that legislation soon.

I know there are some who say we should not graduate Russia yet—the Chairman alluded to this in his opening statement regarding some concerns he has—because of the need to leverage WTO accession for Russia.

I would like to know what your view is, what the administration's view is, if it has a view, and what timetable you think would be appropriate for us to deal with this, or any other specifics you would like to share with us.

Mr. ZOELLICK. Thanks, Senator. I know this is a tough issue for many people on the trade side, to be frank, because we are not all pleased with what Russia does. But I have a perspective on this, as you know, Senator, that goes back from when I was dealing with the end of the Soviet Union and the transformation of Russia. I cannot emphasize enough how Jackson-Vanik is seen in Russia as a vestige of the Cold War.

It was passed for immigration reasons. They met the immigration test. They have complied fully with it for 9 years. They are not even subject to any annual reviews. We, and they, have worked with the human rights community to meet on some of the religious issues on this.

I think the President has a meeting with President Putin in May. It would be really important for this relationship if we could get that old signal of the Cold War done and passed.

Now, some have said, well, should we set up some other role for Congress as a vote in terms of the WTO? And here is my caution on that. We have some 28 negotiations going on in the WTO, and not one of them has a Congressional vote.

So what are the Russians going to think? The Russians are going to again think, well, the United States is treating us as an enemy at the exact time we are trying to get over that past.

So what I can assure you, and I will do it any way I can, is that we are not going to take these issues easily in terms of the accession. We will work with you. We know the strength of feeling. Goodness knows, we work with the various groups from agriculture and others.

On some of the issues that the Chairman and I talked about, I believe we need to respond firmly to let them know they have got to follow the rules. If they do not meet the rules, it is not just us. It is the 140-some other countries that will not let them in.

So I know that, from trade perspectives, sometimes you say, well, why give up something? But from the larger point of view of how the Russians see this with the end of the Cold War and the relationship we are trying to make, I really urge you to try to be supportive of Senator Lugar's effort.

Senator KYL. Thank you very much.

Mr. Chairman, as you know, that is reflective of my view as well, and I volunteer to be as supportive or helpful as I can on that effort. I appreciate your answer, Mr. Ambassador.

The other question that I had relates to our discussions with Canadians and others about pharmaceuticals and pricing, and the negative impact that has on drug prices here in the United States.

I am informed that your staff had not fully concluded its work on that for you to definitely answer here. I would simply request that, at the earliest opportunity that you can, would you please call me with your conclusions about this, followed by any written response that is appropriate, so that we can work on that problem in an effort to ensure that our drug prices here are not unnecessarily increased because of trade situations with other countries in which they are able to reduce those drug prices to their citizens relative to the United States?

Mr. ZOELLICK. Certainly, Senator. I am sorry I am not ready today, but I will try to move on it as quickly as I can.

Senator KYL. Great. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. I am going to call on Senator Rockefeller. Can you wait just a second? I think we have a quorum.

I would like to have you just stay there while we deal with an issue, as I previously had said. Now, are you sure we have a quorum? All right.

[Whereupon, at 11:12 a.m. the hearing was recessed to reconvene at 11:14 a.m.]

The CHAIRMAN. We will reconvene the hearing. I would call on Senator Rockefeller. Before you start, I know Senator Lincoln has gone and come back twice. I thank her, Senator Breaux, and Senator Nickles for coming to help us move the nominations.

For those of you who have been here for the whole hour, of course, thank you. I thank Senator Baucus for his cooperation on this as well.

Now, Senator Rockefeller is not going to ask a question. He is going to make a statement. I would like to have the other members, if he goes more than five minutes, be satisfied that, since he is not asking questions, he is probably not going to take up any more time anyway.

So, Senator Rockefeller is recognized for a statement.

**OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, A  
U.S. SENATOR FROM WEST VIRGINIA**

Senator ROCKEFELLER. Thank you, Mr. Chairman. Ambassador Zoellick, I appreciate your being here.

At 6:00 p.m. on the last possible day after a wait of 3 years, the Loan Board for steel guarantees turned down Wheeling Pittsburgh Steel. Their creditors said it was a good business plan and the Commerce Department, the SEC, and the Federal Reserve, all obviously of the administration, voted against it. That will affect approximately 25,000 human beings in West Virginia. Please do not expect me to be neutral.

At issue is what the administration is doing, it seems to me, to help the domestic steel industry fight back against unfair trade practices—you indicated in your statement that you were doing

quite a lot—and also, to preserve a domestic steel industry as part of a U.S. industrial base, something which some of us consider to be rapidly disappearing, and to give steelworkers who have worked in the grueling conditions of a steel mill, some for all of their adult lives, a fair chance to keep their health and pension benefits.

For the life of me, I cannot understand why this administration is refusing to use every single tool at its disposal to help Wheeling Pittsburgh and others to preserve our domestic steel industry. It is baffling to me. In West Virginia, a State that I would think the administration would sincerely appreciate, it is inexplicable.

Since I am not asking you a question, I do not know whether you want to respond or not. Let me say this. I think there has emerged what to my eyes is a consistent pattern of the administration refusing to avail itself of the measures available under the law to help our steel industry. We have discussed this before. We have always come to the same result.

The Section 201 action, the so-called anniversary of which is today, was a moderate technical move and was initiated by the administration. But you and I know action was taken reluctantly by the administration at the last moment, just in advance of this committee's own clear intent to require the ITC to investigate, because the Finance Committee has the same powers as does the President with respect to this.

We had the votes to require the investigation. The administration knew it. Then when the 201 tariffs were issued last March—and I hope my colleagues will listen to this carefully—a year ago today, the administration immediately exempted dozens of countries, Canada, Mexico, most developed countries in the world.

Soon thereafter, it exempted, in addition, hundreds and hundreds of individual steel products from those tariffs. Of course, the public did not know that, newspapers did not write about it, but the effect was the same.

Yet, another set of exclusions are scheduled to be announced soon. I do not know what they will do, but I suspect there are now about 5 percent of steel products which are not exempted from the 201 action. Yet, there was a great deal of hoopla about it. I find that somehow cynical, hard to understand, very damaging.

When it comes to our trade laws, the administration has repeatedly tried to fill the ITC, the body charged with enforcing our trade laws, with nominees whose operating assumption seems to be that our trade laws are misguided and should only be enforced in rare circumstances. Charlotte Lane, who we just nominated, is an exception to that. The administration appears determined to create an anti-enforcement bias on the very commission designed to uphold our trade laws.

On legacy costs, which everybody knows to be a major structural problem for the American steel industry, the administration has consistently refused to discuss or play any part in this whatsoever.

On health care protections for steelworker retirees whose former employer was driven out of business by the current crisis, the administration refused to lift a finger to preserve the benefits that men and women who toiled long hours in oppressive conditions had earned.

The administration would not endorse any government assistance when I offered an amendment to the trade bill. While Senator Baucus and I were able to retain a very small provision for steel retirees age 55 to 65, in the final trade conference report the administration has since announced that it will not implement the law—the law—as written.

I just do not get it, Mr. Ambassador. This administration keeps telling people it is the champion of steel. It continues to do that in West Virginia. But time and time again you refuse to use the tools at your disposal to help the steel industry, to help people, to help steel retirees in steel communities. The administration keeps pointing to what it has done, or more accurately, what it did last year, more accurately, Section 201, as if that is enough.

I cannot abide listening to the administration brag that it has done all that it can do for the steel industry. You have done all that you want to do. You have done all that is ideologically appropriate, in your judgment. But as the list shows that I went through only in part, that is a far cry from what you are authorized to do under the law.

In conclusion, you and the rest of the administration need to know that the great opportunity and support that you have received for the Section 201 tariffs last year by a public that did not know what it is you have done to gut it, has quickly eroded. It has probably eroded in my State faster than it has eroded in other steel States, but it will happen there, too.

Maybe you have made a decision that the collapse of the West Virginia steel industry is collateral damage that you can sustain as long as another steel State continues to believe that this administration is their friend. I do not know. I do not know, but I hope the President is aware of the consequences for this administration.

I continue to hope I can persuade the Secretary of Commerce, and some of the people who work for him who continue to seem to be interested, to help the steelworkers in my State.

I do not think the President is reading my letters any more, but I wanted to let my colleagues, and you, Mr. Ambassador, know that I am not going to give up.

I thank the Chairman for his indulgence.

The CHAIRMAN. Thank you, Senator Rockefeller.

I am going to call on Senator Breaux. Maybe I should ask, does the Ambassador want to respond in any way? It might be appropriate, but I am going to let you make that judgment.

Mr. ZOELLICK. I will just respond very briefly. I know the strength of feeling that Senator Rockefeller has on this, and I know his ardent advocacy. I obviously would dispute many points which he said, but since time is limited I will just leave it at that.

The CHAIRMAN. Senator Breaux?

Senator BREAUX. Thank you, Mr. Chairman. Thank you, Mr. Ambassador.

You all have been very busy in the area of free trade negotiations. I would like to make a short set-up to a question with regard to sugar, and my second question will be regarding rice.

You concluded negotiations on free trade agreements with Chile, with Singapore. You have launched four new free trade agreement negotiations with Central America, Morocco, the South African

Customs Union, Australia, and you have hinted, I guess, today, very broadly, that you are going to be doing a lot more.

I agree that we should be doing these, and I congratulate you for your involvement in these free trade agreements, because I think they are incredibly important in increasing the opportunities of selling U.S. products abroad.

The concern I have with regard to the separate free trade negotiations with these individual countries with regard to sugar, is the sense that the U.S. has become the dump market for world sugar that is dumped into the United States.

I am concerned that any kind of solution to looking at what is happening in the world sugar market with these other countries around the world cannot be adequately addressed in individual free trade agreements.

It seems to me that the necessary reforms to correct the imbalance in the world sugar markets can only be achieved in a more comprehensive and global negotiation in the context of the WTO, where you would be able to, I think, more aggressively look at the world situation as opposed to trying to do it in individual bilateral free trade agreements.

So I guess, having come from the point I am trying to express, it is that the logical conclusions would be that the negotiations on sugar should not be pursued in the context of the individual free trade context, but reserved for the broader WTO context. I would like you to comment on that thought.

Mr. ZOELLICK. Well, first, Senator, I want to thank you for your help, and actually for many in the Louisiana delegation. I think, given the Port of New Orleans, I am often outflanked on my free trade side by the Louisiana delegation.

I think, on the WTO negotiations, as I have mentioned to the Chairman and Senator Baucus, that is clearly our major effort in terms of agriculture. But we also are in a situation where, if the European Union will not move on something, we do not want to be frozen on our overall agenda. So we need to move on multiple fronts.

Frankly, it is like anything else. If we are moving on multiple fronts, I think it will enhance our leverage to say to people, you have got to move in the WTO, because if they get stuck we will just keep going elsewhere.

Senator BREAUX. Do you plan to do that in the WTO context and really get individual free trade negotiations? I mean, I just think it is really important to have a global look at this problem as opposed to just individual countries talking about it, because it truly is a global problem.

Mr. ZOELLICK. Certainly, Senator. And I would be pleased to get any additional ideas you have had. You have helped us on rice, and other issues, as I mentioned when you were out, with Taiwan.

I would just say, in the bilateral agreements, here is the issue. I know the sweetener industry would kind of like these products excluded. We have tried, and I think you can see with Chile and others, we dealt with them extremely sensitively as we went along.

The problem we have, is there are a lot of other agricultural interests. If you start to exclude one thing, then people say, well, will

the other guys get to exclude pork from Senator Grassley, or others? So we do try to make these comprehensive agreements.

But I assure you that we are trying to look at the big picture in the WTO context, and in the meantime we are trying to deal with the sugar interests sensitively.

Also, while you were out we talked a little bit about this in the Mexican sweetener case, where I know we have got sensitive issues we have got to balance, and you have tried to help us there, too.

Senator BREAUX. Can you bring me up to date on that, just as to where we are?

Mr. ZOELLICK. As the Chairman mentioned, we have got this high fructose tax that the Mexicans have put on, and particularly as they look to their Congress reconvening, we really want to get that repealed.

As you also know in the sweeteners area, on the sugar side, in terms of the Tier II tariff, a lot of our sugar people are also realizing, whatever happens to the dispute on the side letters issue, this is going to bite.

So I have discussed with my Mexican colleague recently, who just became the foreign minister but is still doing the trade issues, so he is a little in between, our need to get back on that. I think we are going to be meeting again. There are going to be some discussions this week and following.

As I said to the Chairman, we have got to get a balance here, as we have discussed with you and others, because we have got multiple interests. That is what we are hoping to try to do. But it really goes to your global point in a regional context, which is that we have got a sweeteners market here.

However NAFTA worked on this, we respect NAFTA, and we have got to deal with this problem in a regional way with all the sweeteners. That is what we have discussed with you, and what we have discussed with the various groups.

Senator BREAUX. Just real quickly, thank you for your work on rice. I know that in Japan you have been very strong in insisting that they try and open up their markets and actually use the products instead of store it. If the government ever allowed it to get into the consumer market, I think we would be in much better shape.

The same, also, with Mexico, because Mexico is a big, important trade area for rice and farmers in this country. And about five States are in about the worst condition that I have seen in 30 years. I mean, it is that bad. Any help that you can give in that area, and the good work that you have done in Taiwan, is much appreciated.

Mr. ZOELLICK. Well, it helps to do it together, Senator. I appreciate it.

Senator BREAUX. Thank you.

The CHAIRMAN. Senator Lincoln, then Senator Smith.

Senator LINCOLN. Thank you, Mr. Chairman. Welcome, Mr. Ambassador. It is always a delight to have you here as we go through these discussions of what we can do on behalf of our constituents, and the hard work that you do on behalf of our country. We appreciate it.

I want to thank the Chairman for chairing the hearing today, because I do think it is important.

As we reflect back on passing the trade promotion authority, which I think was a very necessary development and I was pleased to see it reach such a successful conclusion, I, for one, believed early on that it was imperative that Congress reauthorize the trade negotiating authority so that you could get back to the bargaining table, which is what you have been doing, and you have been doing a great deal of it.

This authority has already assisted you, I think, in negotiating free trade agreements with Singapore and Chile, as we have mentioned earlier here today. Now we are setting a very ambitious course to sign the bilateral free trade agreements around the world, as you have mentioned, Central America, Australia, Morocco, the Southern African Customs Union. This, along with the new round of WTO negotiations, as Senator Conrad pointed out in a previous hearing, are not off to a great start.

But the ongoing discussions on the Free Trade Area of the Americas and the other problems in trade that are felt throughout the country, including Arkansas—and you have been very generous with your time in listening to me about the particular problems we do face in Arkansas in our industry areas—about choosing truly beneficial free trade agreements, and on lifting particularly the Cuba trade embargo—which does not come as a surprise. I have talked about that a lot—on dealing with the WTO panel decisions, and certainly on our constant stream of specific international trade problems.

For Arkansas, some of these specific problems are causing very serious harm. The first instance I would look at would be Russia, as an example, who has gone to great lengths to restrict the imports of our U.S. poultry and meat products.

President Bush has had personal conversations with President Putin regarding this issue. Yet, these barriers still exist to a great degree. I, along with several of my colleagues in the Senate, will soon be sending a letter to President Bush encouraging him to take aggressive action in these matters.

I guess another example, and I would love to hear since you have recently been to China, after their first year as members of the WTO, they are still non-compliant on the full market access to the U.S. raw cotton and the GMO soybeans. I know Senator Baucus brought some of the GMO issues up in my absence.

But clearly, I think this bilateral approach is, I would not say even sluggish, but is in some ways going nowhere in regard to those particular two issues. So, I have a couple of questions.

First, we have already discussed how our negotiating resources and manpower that you have are strained between the array of bilateral and multilateral talks. You are doing a tremendous job with what you have, but you cannot be everywhere at once. I agree with Senator Breaux that the global aspect of solving these problems is important, taking them in the global context.

I guess, for the committee's sake, I would like to hear your assurances that you can give the members of the committee that these domestic concerns will have the resources that they need, and in



the context of all of how thin you are spread, making sure that we know that all of what needs to happen is going to happen.

I guess, second, the specific problems, like Russia and China, can they even be resolved through bilateral diplomacy, or have we really gone beyond that point? Is litigation our best and our only chance for favorable resolutions to those particular concerns I have noted?

Mr. ZOELLICK. Well, thank you, Senator. Thanks for all of your help. You have been a stalwart supporter on this and I personally really appreciate it.

Let me start, first, with your poultry one, which you alluded to. I know that is a very big market in Russia. We work together on this. As you know, we work closely with the poultry industry.

As I mentioned to the Chairman, they put on a safeguard, but we are not going to rest with this. We have got to get this market open again. It is true for other meat products, too.

Senator LINCOLN. Do you think that is going to require legal steps?

Mr. ZOELLICK. It may. I certainly would not shrink from it, as I made an allusion to the fact that since they are not a WTO member, there is a full range of options we have, including Section 301, and they all ought to be on the table.

For your second question, we are certainly committed to the particular domestic issues you discussed, whether WTO or other contexts. I really do believe, Senator, it helps, just as you would, working on multiple fronts. It actually gives you more leverage.

I mean, take the Australia case. Australia is one that I know is very competitive in agriculture. Some of our guys are sensitive about it. But our pork and oil seeds and other seed is a good market.

Yet, we work really closely with the Australians in the WTO, so part of this is putting together the coalition's work. The more we have worked with the Central Americans—they have been some of our strongest advocates for liberalization in the WTO, as well as in other contexts.

With Africans. Look at President Chirac. He seems to pretend to pay attention to Africa. So if we can get some Africans telling him, look, open your markets for agriculture, that helps face up to the reality of what European subsidies are doing in that process.

The second part of your question? I am sorry, I just forgot.

Senator LINCOLN. You kind of hit on that.

Mr. ZOELLICK. Oh. China. China, and can we do these things. Let us take the first one, soybeans. President Bush raised this with Jiang Zhemín and they said at that point they would not let their biotech regulations get to be an impediment.

What happened is, they had field trials last year. They did not finish the work, so they announced in January that they were going to have additional field trials.

And one of the messages that I brought, not just to my trade counterpart, but to Wen Jiao Bao, who likely this week will come out as the Prime Minister, is to say, look, you have got to grow the darn soybeans. So, if you have uncertainty about September for the licensing period, it is going to create havoc in the market.

I got a pretty good assurance on that, which I always want to try to nail down. But I think that one, I feel relatively positive about. But the other one, you mentioned cotton, is that I have stressed this one very hard as part of some of the other agricultural tariff rate quotas, and went into the details of the problems with how they are operating those tariff rate quotas.

Now, on the one hand, it is the first time doing it. The economy has gone through big changes. You could expect a few little problems. But I also think that we have to be careful because they have got some protectionist interests, that these could be manipulated and used.

So when I left China, I had a follow-up group meet for another day to talk about setting a timeframe to go through the details of what we think has to be done with the TRQs.

And the last thing, Senator, is I will say that I also mentioned, from members of the Congress, but my own view is, while we are never eager to go to WTO dispute resolution, we realize China is just starting in the process. We want to try to work it out. We will not hesitate, if need be. These TRQs have to be fixed.

Senator LINCOLN. Thank you.

Mr. ZOELLICK. Thank you.

The CHAIRMAN. Senator Smith?

Senator SMITH. Thank you, Mr. Chairman.

Mr. Ambassador, welcome. I am thrilled to meet you here today after we have had many conversations on issues of trade.

Mr. Ambassador, I noted with some interest a recent comment by a Canadian member of Parliament referring to the American people, that she "hates those bastards." Looking at Senator Bingaman's chart, frankly, I wonder if that feeling is not being expressed in trade policy in Canada. So, it is with some irritation that I see the Canadian government spending millions of dollars on television ads suggesting that this is somehow equal.

It is particularly sensitive in my case, because I represent a State where what I regard as predatory practices in Canada of giving away crown land lumber has had a devastating impact on the industry, family wage jobs in the State of Oregon.

Oregon is vying to be the number-one State in America in unemployment. I have, in conversations with some Canadians, been told, well, you live with your unemployment, we export ours. I believe in free trade. I believe in fair trade.

When you give away your raw product, it is not fair. It is predatory. So, in our many conversations I have urged you to try and strike a new deal with Canada that is fair. We do not have that yet.

I guess what I am asking you, is your view of the best outcome of these negotiations, because time is truly of the essence here with the last remaining timber jobs in the State of Oregon. Some in that industry are concerned that your office is a negotiator, not an advocate.

I do not know how you view yourself, but I want to express appreciation for your efforts in this regard and ask you, what is, in your view, the best outcome that we can anticipate in getting back to fair trade with Canada?

Mr. ZOELLICK. Let me start, briefly, with your general point, Senator, which is that I see a lot of the Canadian press statements about the United States, and I pointed out to my Canadian colleagues that in the past they have had more antidumping and countervailing duty cases against the United States than we have had against them. But those never get much attention in the Canadian press.

So obviously a good trading relationship is mutually beneficial, but sometimes a little bit of over-sanctimonious on their side may be calmed by looking a little bit at some of their own actions.

I am sorry that Senator Conrad is not here, because we worked together on the wheat issue. That is another one where we have some problems. Just yesterday there was a finding of a countervailing duty against them on it. So, it shows that we will stand up for our position.

On the lumber issue, as you and I have discussed, I think the industry brought these cases. You have findings of about 27 percent in countervailing duties. But it frankly has not helped, because you have had deeper cutting. So, I think there is a lot of frustration on all sides.

One of the things that has changed, is that the provinces really control this policy in Canada. We have had some changes in Provincial government, particularly in British Columbia, and they have demonstrated a willingness to try to change some of the underlying practices to get at this. I am talking about the crown lands, for example.

So where we are at now, is that the Commerce Department and Under Secretary Grant Aldonas, who used to work with this committee, is sort of leading this effort and we are helping with it, is doing what is called a policy bulletin on changed circumstances.

What that means, is what changes would the provinces have to make to be able for us to remove the finding of subsidy? That process is going forward. I think they have made some good progress with British Columbia, some with Ontario, but are having some problems with Quebec.

The other issue, is the possibility of an interim agreement. What this goes to, is the question of, frankly, whether there is a middle ground here for some interim effort that one would have some border prices related, that if lumber went down certain prices, that it was offset only during the interim arrangement, until these long-term changes were made.

That, frankly, is one where we have been working closely with our industry. As you know, our industry reflects lots of different views, lots of different business interests from the parts of the country. I guess, here is my own perspective on that.

We have these cases that are also going to be challenged in the WTO and NAFTA. No one knows the outcome for sure. From some preliminary findings, there was a sense that they did find a subsidy, but the question will be, what amount, over time? So that adds an element of uncertainty.

So what we are frankly trying to get all parties to look closely at, is number one, let us get the focus on the fundamental changes in the provinces, but in the meantime, it might help if you can find some middle ground for some overall border arrangement that is

price based for certain periods of time until you get the reforms, because, frankly, otherwise there is a certain roll of the dice here.

That is for people to make their own judgment about. But how these cases come out, and what rulings the Commerce Department makes adds a certain degree of uncertainty as we go forward. So, it is a complex issue. It is a sensitive one. I appreciate your interests. We will keep trying to work with all parties. The Commerce Department has done an excellent job in trying to do this.

It is one that keeps coming back. So I still come back to the fundamental issue of trying to get a market-based system in Canadian lumber.

Senator SMITH. Well, thank you, Mr. Ambassador. Mr. Chairman, I will submit two written questions related to piracy and the concern I have that some American industries are frankly having their copyrights, their intellectual property, music, movies, software being stolen wholesale. I am curious as to whether you have enough in terms of resources to help combat this.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Smith.

I will also have some questions to submit in writing.

[The questions appear in the appendix.]

The CHAIRMAN. I have two very short ones that I would like to discuss with you right now, but it will not take a long time.

First of all, I would like to thank you because I know you moved a waiver process with WTO so we could advance Kimberly legislation. We are in the process of putting that legislation together, working with Senator Baucus in regard to that. So I thought I owed you a thank you for that.

Mr. ZOELLICK. The thanks is really to you, Mr. Chairman, for taking the issue, because there is a legislative step, and we appreciate it. It is a sensitive issue ethically, and we are glad we put together the Kimberly process. We are glad we got the waiver, and we are really appreciative of your leadership.

The CHAIRMAN. We seem to have, at least from my judgment, an impasse on WTO agricultural negotiations because we have these differences over so-called modalities, and it has slowed the agricultural negotiations at the WTO to a point where I think we are making little progress.

I believe that this is because the European Union, probably Japan, and maybe you ought to name a lot of other countries I will not go into, but they want to avoid making reduction commitments that will result in less trade-distorting spending and more open world agriculture markets.

I am pessimistic, let me say, about making that March 31 deadline for agreeing on modalities for agricultural negotiations. I hope you can tell me I am overly pessimistic, but I do not think so. Do you think that we are going to be able to reach this by the March 31 deadline? If so, could you say how that might be done?

Mr. ZOELLICK. All right, Mr. Chairman. There were some references to the Harbinson text. What this refers to is the fact that, with the 144 countries, the way you move forward the process, is the Chair has to put something out there, and that is what the Chair did.

There are some good things in it for us, like the elimination of export subsidies, not as quickly as we want, making sure that any of the non-trade concerns are dealt with in a market-based manner.

But there are some things that are not good enough for us, particularly on the cutting of domestic support. We have got to make sure that there is greater harmonization with the Europeans.

On the tariff side, they did not just take a Uruguay Round approach, they took deeper cuts for higher tariffs. But we have got greater ambition. Our message is, if we are going to cut domestic support, we have got to get greater cuts in tariffs. As I said, we put a very aggressive proposal out there.

Now the question, Mr. Chairman, is where do they go with this? As you said, the European Union is adamantly against the Harbinson text, and the Japanese have opposed it, the Koreans and others have opposed it. So Mr. Harbinson is in a little bit of a tough position here as he approaches March 31.

I think our focus, Mr. Chairman, and this is where you and others can be a big help with us when foreign delegations come through, is as we have all said, we want to try to keep the process moving to Cancun. We do not want, if we can avoid it, to have a breakdown, but we have got to focus on the strength of our position.

So my own view is, we have got to try to get the Harbinson text better, but we also have to try to work with other countries to look to what we have to do between now and the Cancun meeting to try to get closer and to get deeper cuts.

Here is the key point, Mr. Chairman. The common agriculture policy is in a process of being changed. The commission has put forward some proposals that would, frankly, move a lot of their spending to the green box. So, de-link the spending. It would not solve all of our problems. It would not help on market access. But it could help their flexibility on export subsidies and domestic support.

We need to get a message to the key capitals, some of the ones like Germany that should support this, and France that is resisting it, and Spain that is on the borderline, that if there is going to be a chance of success in the Doha agenda, we have got to have agriculture as the core and this has to move forward. It is not the only piece, but it is a critical piece.

The CHAIRMAN. And then my last point is in regard to the Chile Free Trade Agreement. I know it has been agreed to, and some last things are being worked out.

My question is in regard to a working group meeting to resolve specific outstanding sanitary and phytosanitary issues, and if you can assure me today that these issues will be resolved before legislation implementing the U.S.-Chile Free Trade Agreement is submitted to Congress for final approval.

Mr. ZOELLICK. Well, as you and I discussed, Mr. Chairman, and as you did some real help when the Chileans were here, particularly on the pork issue, it is a critical issue to get done. We now have the meetings. As you know, and you have supported us on this, we never want to be negotiating sanitary and phytosanitary issues.

Those have to be done on a science basis. But there is a reality. If these problems do not get fixed, you cannot get the product in. So, particularly on some of the pork and meat issues, Chile has made some progress on this. There is more to go. I think there are actually some meetings taking place right about now on it, but we will stay in close touch with you.

The CHAIRMAN. All right. That is all of my questioning. So, for the committee, I thank you very much for your time. Obviously, almost everything we talked about is unfinished business, so keep in touch with us. Thank you very much.

Mr. ZOELLICK. Thank you.

[The prepared statements of Senators Hatch and Bunning appear in the appendix.]

[Whereupon, at 11:49 a.m. the hearing was concluded.]

## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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#### PREPARED STATEMENT OF HON. JIM BUNNING

Thank you, Mr. Chairman.

Welcome to the committee today, Ambassador Zoellick. I look forward to a meaningful discussion of the challenges facing our country in the arena of international trade.

I am very concerned about the international competitiveness of U.S. businesses and manufacturing.

While I have every confidence in the ability of the entrepreneurs, the workers and the business men and women in this country to compete against anyone, anywhere in the world, we as their government leaders have to provide them with a level playing field. The fight has to be a fair one.

International trade is important to our economy and plays a vital role in its continued growth and expansion.

However, we cannot allow foreign companies to have access to the strong markets of this country while their home governments refuse to allow the exports of American manufacturers to compete on an even basis in their home markets. Our representatives must continue to push for—and to require—market access for our exported goods.

I have a number of questions and I am looking forward to hearing your responses. Thank you.

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#### PREPARED STATEMENT OF HON. ORRIN G. HATCH

Thank you Mr. Chairman.

I want to commend you and Senator Baucus for all of the accomplishments that were made in the trade arena last Congress.

We passed the Trade Promotion Authority legislation by a broad bi-partisan majority in the Senate.

Now is the time for USTR to utilize this fast track authority to negotiate trade agreements that can benefit both U.S. workers and the economies of our trading partners.

From Ambassador Zoellick's testimony it can be seen that the Bush Administration has an ambitious trade agenda for the 108th Congress. I am in general agreement with our efforts to negotiate free trade agreements with Morocco, Australia, Central America, and various African countries.

It is the hope of many on this Committee—including me—that the Doha Round will result in an agreement that will produce a set of rules and climate that will substantially increase the opportunities for international trade.

I commend President Bush, Secretary Evans, Undersecretary Grant Aldonis and Ambassador Zoellick and the highly-talented USTR staff—including our own son of Utah, Deputy United States Trade Representative Jon Huntsman, Jr.—for their role in re-asserting the leadership of the United States in international trade negotiations. Good job!

I also want to once again commend the ITC and President Bush for their work with respect to the section 201 case on steel production. Unfortunately, due to years of unfair foreign competition the relief provided did not come soon enough to allow a Utah firm, Geneva Steel, to compete on a level playing field. Good jobs were lost in Utah when Geneva stopped production.

On balance, though, I continue to believe the advantages of free trade are greater than the disadvantages.

Let me mention a few items that I will be watching with particular attention during this Congress.

First, members of the Judiciary Committee, which I chair, are following closely the immigration provisions of the proposed bi-lateral agreements with Chile and Singapore. We need to guard against bi-lateral trade agreements becoming vehicles that create tension between current immigration policy, law, or procedures.

Second, I will continue to work to see enacted the bi-partisan Hatch-Leahy Intellectual Property Technical Changes Amendment that this Committee adopted as part of the Miscellaneous Tariffs legislation last week. We need to stand behind the high tech community from new techniques of piracy that have developed or become more prevalent since the time the TRIPS provisions were drafted over ten years ago. For example, the illegal downloading of copyrighted works from the Internet and from satellites. The music recording industry is under attack and we all should have heard by now the fears, justified I am afraid, of Jack Valenti that the movie industry is squarely in the sights of international pirates.

Third, many members of this Committee and others in Congress are watching closely the developments surrounding implementation of Paragraph 6 of the Doha Declaration on Public Health. Senator Graham circulated a bi-partisan letter that I signed with then Chairman Baucus and Senator Breaux outlining are concerns. Chairman Grassley and Senator Bingaman wrote to you on this matter.

Let me just say that I am one of those supportive of the President's ambitious new program to help combat AIDS in Africa and in this hemisphere. I have a long interest in fighting AIDS and other infectious diseases at home and abroad. We can do a lot of good for \$15 billion spread over 5 years, if we invest it wisely. Frankly, now is the time for other developed nations to come forward with additional commitments of resources.

As I follow the Paragraph 6 discussions, I can't help but feel the substantial concessions that we are prepared to make in the area of pharmaceutical IP, and the extremely generous \$15 billion U.S. taxpayer commitment that President Bush advocates, is not being leveraged in a fashion to maximize the potential public health impact in those least developed nations we are attempting to help.

To put a point on this, let me just say that if we are going to make scarce U.S. taxpayers fund available to help fight AIDS in the developing world, and to allow compulsory licensing of U.S. invented drugs in these countries, at the very least we should insist that those countries encourage, rather than actively discourage, HIV-infected pregnant women from receiving nevirapine [no-ver-ah-peen] so that their babies have a chance to be born free from HIV-infection. To be specific, South Africa's record in this area is dismal.

As well, there is much talk about the combination HIV therapy that can be produced under compulsory licenses for \$300 per patient per year. Has the Food and Drug Administration, or other expert regulatory body, inspected these manufacturing facilities? Is the labeling and directions for use of these new combination products in accordance with the labeling—developed through very expensive and extensive clinical trials—on the pioneer products? For that matter, are there combination products being given to citizens in the developing world which have never been the subject of controlled clinical trials?

Mr. Chairman, there are many public health questions that must be asked as we implement Paragraph 6 and develop the President's new initiative to be certain we are helping those we intend to help. I look forward to working with the Administration and my colleagues on the Committee on these and other trade issues.

I appreciate the opportunity to be here today, and look forward to hearing from our witness.

Thank you, Mr. Chairman.

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PREPARED STATEMENT OF ROBERT B. ZOELICK

Mr. Chairman, Senator Baucus, and Members of the Committee: Thank you for the opportunity to testify today, for your guidance and support, and the tremendous work of your staffs during this past year. We are very grateful for your successful and major effort to pass the Trade Act of 2002, including Trade Promotion Authority (TPA). We greatly appreciate your leadership, Mr. Chairman—and that of the previous Chairman—and value our partnership with the Congress on trade matters.

Over the past two years, working together, we have rebuilt America's leadership on trade. We are now pressing aggressively to secure the benefits of open markets for American families, farmers, workers, consumers, and businesses. President Bush



is advancing, in close association with the Congress, an activist strategy “to ignite a new era of global economic growth through a world trading system that is dramatically more open and more free.”

A key achievement this past year was the renewal of the Executive-Congressional partnership embodied in TPA. This Committee has always provided steady support for that critical linkage.

With the restoration of TPA after a lapse of eight years, the Administration has begun to fulfill the vision of open markets and development articulated at the launch of new global trade negotiations in Doha, Qatar, in November 2001. The United States has submitted far-reaching proposals to the World Trade Organization (WTO), including plans to remove all tariffs on manufactured goods, open agriculture and services markets, and address the special needs of poorer developing countries.

Consulting closely with Congress, the Administration capped the year by completing Free Trade Agreement (FTA) negotiations with Chile and Singapore, which, when implemented, will open new markets for American exporters while expanding choice and value for American consumers. By lowering prices through imports and increasing incomes through trade, America’s newest trade agreements will build on the success of the North America Free Trade Agreement (NAFTA) and the Uruguay Round, which together already provide the average American family of four with benefits amounting to \$1,300 to \$2,000—each and every year.

As President Bush has noted, “America is back in the business of promoting open trade to build our prosperity and to spur economic growth.”

The Bush Administration looks forward to maintaining a close partnership with Congress in 2003 as we lay a firm foundation for a more prosperous America by passing the free trade agreements with Chile and Singapore; building upon our proposals to open markets in global trade talks; advancing negotiations on the Free Trade Area of the Americas (FTAA); negotiating new FTAs with the five countries of the Central American Common Market, Australia, Morocco, and the five countries of the Southern African Customs Union; enforcing U.S. trade laws; and monitoring and pressing China’s and Taiwan’s compliance with their WTO obligations.

#### *Realizing the Free Trade Vision*

Following World War II, America successfully employed trade to help shape a positive bipartisan agenda of growth, openness, and security. With the end of the Cold War, however, the Executive-Congressional partnership that fueled that historic progress lapsed, despite the best efforts of many on this Committee.

To lead globally, President Bush recognized that he had to reverse the retreat at home. He worked successfully with Congress to enact the Trade Act of 2002. This Act included Trade Promotion Authority (TPA), which re-established the authority necessary to credibly negotiate comprehensive trade agreements by ensuring that they will be approved or rejected, but not amended.

The Trade Act of 2002, however, included more than just TPA. As the legislation moved through Congress, pro-trade Republicans and Democrats worked closely with the Administration to incorporate trade-related environmental and labor issues, while simultaneously addressing concerns about sovereignty and protectionism. The Act nearly tripled funding for the Trade Adjustment Assistance program—from \$424 million in 2001 to \$1.3 billion in 2003—to provide income support, health care, and training to Americans who need to acquire new skills or require temporary assistance due to job transitions in the international economy. The Trade Act also included a large, immediate down payment on open trade for the world’s poorest nations, cutting tariffs to zero for an estimated \$20 billion in American imports from the developing world by renewing and expanding the Andean Trade Preference Act, the African Growth and Opportunity Act, the Generalized System of Preferences, and the Caribbean Basin Trade Preferences Act.

The Bush Administration is committed to active consultations with Congress to ensure that America’s negotiating objectives draw upon the views of its elected representatives, and that they have regular opportunities to provide advice throughout the negotiating process. The Trade Act of 2002 established a new Congressional Oversight Group with bipartisan representation from all the committees with jurisdiction over legislation affecting trade. The Administration will continue to consult regularly with Congress on U.S. trade policy, both through the Oversight Group and through the committees of jurisdiction.

Even as it has rebuilt support for trade at home, this Administration has been working abroad to open markets on all levels: globally, regionally, and bilaterally. By moving forward on multiple fronts, the United States is exerting its leverage for openness, creating a new competition in liberalization, targeting the needs of poorer

developing countries, and creating a fresh political dynamic by putting free trade on a global offensive.

Coming to office in the wake of the 1999 failure to launch new WTO negotiations in Seattle, the Bush Administration recognized the importance of launching new global trade negotiations to open markets and spur growth and development. Our leadership—in conjunction with the European Union, many developing countries, and others—was instrumental in launching the Doha Development Agenda (DDA), against long odds. The United States is committed to the goal of completing the DDA by the agreed deadline of 2005. The Administration also played a key role in enlarging and strengthening the WTO by adding China and Taiwan to its ranks, building on the hard work of the Congress and previous Administrations. By adding these important economies to the WTO, we are helping to ensure that China and Taiwan commit to a rules-based, open system of trade that will expand opportunities for Americans in these markets. Since 1995, the United States has helped add 17 new members to the WTO—and efforts are in train to add Russia and other nations in the future.

To maximize the likelihood of success, the United States is also invigorating a drive for regional and bilateral FTAs. These agreements promote and reinforce the powerful links among commerce, economic reform, development, and investment, thereby strengthening security and the momentum for free and open societies. Under NAFTA, U.S. trade with Mexico almost tripled and trade with Canada nearly doubled; as important, all three members have become more competitive internationally. NAFTA proved definitively that both developed and developing countries gain from free-trade partnerships. It enabled Mexico to bounce back quickly from its 1994 financial crisis, launched the country on the path of becoming a global economic competitor, and supported its transformation to a more open democratic society.

In the months following the Congressional grant of TPA, the Bush Administration completed FTA negotiations with Chile and Singapore, began new FTA negotiations with the five nations of the Central American Common Market, and announced FTA negotiations with the five countries of the Southern African Customs Union, Morocco, and Australia. We pushed forward the negotiations among 34 democracies for a Free Trade Area of the Americas and will co-chair this effort with Brazil until it is successfully concluded. The United States is once again seizing the global initiative on trade.

#### *Pressing Forward with Global Trade Negotiations*

Since the launching of new global trade negotiations at Doha in 2001, the United States has offered a series of bold proposals to liberalize trade in the three key sectors of the international economy: industrial and consumer goods, agriculture, and services. The U.S. leadership demonstrated by these proposals has been instrumental in maintaining forward momentum in the negotiations and in keeping WTO Members focused on the core issues of market access.

*Consumer and industrial good.* The U.S. proposal for manufactured goods calls for the elimination of all tariffs on these products by 2015. This was the trade sector first targeted by the founders of the General Agreement on Tariffs and Trade in 1947. After more than 50 years' work, about half the world's trade in goods is now free from tariffs. It is time to finish the job.

The U.S. proposal would level the playing field first by harmonizing disparate tariffs at lower levels and then eliminating them altogether. We envision this happening in a two-stage process. The first phase would take place between 2005 and 2010. During that time, WTO Members would eliminate all non-agricultural tariffs currently at or under 5 percent. This step would completely eliminate tariffs on more than three-quarters of imports into the United States, the European Union, and Japan in just five years. It would significantly boost trade among the major industrialized nations and spur developing countries' exports to developed nations.

During the 2005–2010 period, countries could also eliminate non-agricultural tariffs in highly traded goods sectors—such as environmental technologies, aircraft, and construction equipment—through a series of zero-for-zero initiatives with trade partners that are ready to commit to greater levels of openness. In addition, for all other duties the United States is proposing a “Tariff Equalizer” formula, which would bring all remaining non-agricultural tariffs down to less than 8 percent. In order to achieve greater equity, the highest tariffs would fall farther than the lower tariffs.

The second phase of the U.S. proposal would be carried out between 2010 and 2015. During those five years, all WTO Members would make equal annual cuts, until their tariffs on goods are eliminated. With zero tariffs, the manufacturing sectors of developing countries could compete fairly. The proposal would eliminate the

barriers among developing countries, which pay 70 percent of their tariffs on manufactured goods to one another. By eliminating barriers to the farm and manufactured-goods trade, the income of the developing world could be boosted by over \$500 billion.

The U.S. proposal for a zero-tariff world is a major tax cut that would directly save America's working families more than \$18 billion per year on the import taxes they currently pay in the form of higher prices. The dynamic, pro-business, pro-consumer, and pro-competitive effects of slashing tariffs would mean that America's national income would increase by \$95 billion under the U.S. goods proposal. Together with the tax cut from lower tariffs, that would mean an economic gain of about \$1,600 per year for the average family of four.

*Agriculture.* America's farmers are a key to our economic vitality. Dollar for dollar we export more wheat than coal, more fruits and vegetables than household appliances, more meat than steel, and more corn than cosmetics.

The U.S. goal in the farm negotiations is to harmonize tariffs and trade-distorting subsidies while slashing them to much lower levels, on a path towards elimination. The last global trade negotiation—the Uruguay Round—accepted high and asymmetrical levels of subsidies and tariffs just to get them under some control. For example, the Round set a cap on the European Union's production-distorting subsidies that was three times the size of America's, even though agriculture represents about the same proportion of our economies.

The 2002 U.S. Farm Bill—which authorized up to \$123 billion in all types of food-stamp, conservation, and farm spending over six years, amounts within WTO limits—made clear that the United States will not cut agricultural support unilaterally. But America's farmers and many agricultural leaders in Congress back our WTO proposal that all nations should cut tariffs and harmful subsidies together. The United States wants to eliminate the most egregious and distorting agricultural payments—export subsidies. We propose cutting global subsidies that distort domestic farm production by some \$100 billion, slashing our own limit almost in half. We would cut the global average farm tariff from 60 percent to 15 percent, and the American average from 12 percent to 5 percent. The United States also advocates agreeing on a date for the total elimination of agricultural tariffs and distorting subsidies.

*Services.* The United States is by far the world's leading exporter of services. We have submitted requests to our WTO partners that would broaden opportunities for growth and development in this critical sector, which is just taking off in the international economy. Services represent about two-thirds of the U.S. economy and 80 percent of our employment, yet they account for only about 20 percent of world trade. Services liberalization would open up new avenues for trade, benefiting both the United States and our trading partners. The World Bank has pointed out that eliminating services barriers in developing countries alone could yield them a \$900 billion gain.

As WTO negotiations have progressed, we are making significant progress in a number of other areas covered by the Doha declaration, including:

*Capacity Building.* The United States is committed to expanding the circle of nations that benefit from global trade. We listen to the concerns of developing countries and assist in their efforts to expand free trade. This past year, we devoted \$638 million—more than any other single country—to help developing economies build the capacity to take part in trade negotiations, implement the rules, and seize opportunities. We have also acted in partnership with the Inter American Development Bank and other multilateral institutions to provide new capacity enhancing resources and expertise.

In addition, the Bush Administration is emphasizing the important contributions that small businesses make to the U.S. and global economies. Small businesses are a powerful source of jobs and innovation at home and an engine of economic development abroad. By helping to build bridges between American small businesses and potential new trading partners, these enterprises can become an integral part of our larger trade capacity building strategy. Working with the U.S. Small Business Administration, we have established an Office of Small Business Affairs at the Office of the United States Trade Representative (USTR) that is charged with insuring that American small business concerns are incorporated into our trade policy pursuits.

*Intellectual Property.* We agreed at Doha that the available flexibility in the global intellectual property rules could be used to allow countries to license medicines compulsorily to deal with HIV/AIDS, tuberculosis, malaria and other epidemics. We are also committed to helping those poor regions and states obtain medicines they cannot manufacture locally. To keep faith with our Doha obligations, the Administration has issued a pledge: while we pursue a global understanding on how these

life-saving medicines can best be provided to countries that cannot produce the medicines themselves, the United States will not challenge in dispute settlement any WTO Member that uses the compulsory licensing provisions of the TRIPS Agreement to export such drugs to a poor country in need. The Administration believes we must strike the necessary balance between protecting life-saving research and patents and helping those truly needy that face infectious epidemics.

*Trade Rules.* The international rules that govern unfair trade practices should be improved, not weakened. Indeed, the DDA explicitly states that any negotiation of trade remedy laws will preserve the basic concepts, principles, and effectiveness of existing agreements, as well as their instruments and objectives. This clear mandate will enable the United States to press for trade remedies to be applied in a manner consistent with international obligations. Inappropriate and nontransparent application of these laws can damage the legitimate commercial interests of U.S. exporters.

*The Environment.* Work has progressed well over the past year on the DDA's trade and environment agenda. The United States has urged new disciplines on harmful fisheries subsidies, prompting discussions in the Rules Negotiating Group on the inadequacy of existing rules in preventing trade distortion and resource misallocation in this important sector. The Bush Administration has stood firm against efforts to use so-called non-trade concerns, including using unjustified trade-distorting measures under the guise of environmental policy, to undermine the agenda for agricultural liberalization. At the same time, we helped move discussions forward on increasing market access for environmental goods and services in several WTO fora. WTO Members also began to identify avenues for increasing mutual supportiveness of multilateral environmental agreements (MEAs) and the WTO, particularly with respect to cooperation and communication between these institutions.

*Electronic Commerce.* The United States is actively engaged in the work program on electronic commerce, now being conducted under the auspices of the WTO's General Council. In 2002, two meetings were dedicated to e-commerce and focused on classification and fiscal implications of electronically transmitted products. As the work progresses, the United States will push for a set of objectives to form the basis for a positive statement from the WTO about the importance of free trade principles and rules to the development of global e-commerce.

*Transparency in Government Procurement and Efficient Customs Procedures.* The Administration also continues to push for the reciprocal removal of discriminatory government procurement practices in a wide range of multilateral, regional and bilateral fora, including the WTO. The Administration is urging the conclusion of an Agreement on Transparency in Government Procurement that would apply to all Members of the WTO. The United States is also taking part in negotiations on new WTO rules to facilitate trade by making procedures at international borders more transparent and efficient.

*Labor Issues.* The United States has continued to press for increased cooperation between the WTO and the International Labor Organization (ILO). We charted important progress in 2002: the creation of the ILO's World Commission on the Social Dimensions of Globalization, which is undertaking a thorough analysis of the implications of trade and investment liberalization on employment, wages, and workers' rights. We look forward to the Commission's 2003 report.

The Administration's commitment to mutually supportive trade and labor policies has also benefited greatly from a partnership between USTR and the Department of Labor's International Labor Affairs Bureau (ILAB). ILAB has directly supported the work of the ILO, focusing particularly on promoting the 1998 *ILO Declaration on Fundamental Principles and Rights at Work* and the International Program for the Elimination of Child Labor (ILO/IPEC). ILAB is working with the ILO and other international organizations to assist countries in implementing core labor standards and is also providing technical cooperation to strengthen the capacities of developing countries' Labor Ministries to implement social safety net programs and combat the spread of HIV/AIDS. Realizing that child labor can never be fully eliminated until poverty is vanquished, the Administration and ILO/IPEC have focused on the eradication of the worst forms of child labor, including bonded or forced labor, child prostitution, and work under hazardous conditions. We have also bolstered the U.S. trade and labor agenda through ILAB analyses of labor laws and the worker rights situation of our trading partners.

*Commitment to Progress within the WTO.* To help maintain the momentum after the Doha agreement, WTO Members agreed that Mexico would chair the mid-term review of progress at the September 2003 Ministerial in Cancun. This meeting will provide WTO Members with the opportunity to chart a course for the final phase of negotiations. We welcome the leadership role that Mexico is playing by hosting this important meeting.

As negotiations progress, the United States will be placing special emphasis on a continued effort to ensure the involvement of the poorest and least developed nations, in order to assist them in securing the benefits of trade and to help keep all WTO Members effectively invested in the process. In 2002, we reaffirmed the U.S. commitment to the principle of special differential treatment for least developed countries in order to better integrate them into the global trading system, and devoted unprecedented resources to help such countries build the capacity to take part in trade negotiations, implement the rules, and seize opportunities. We have acted in partnership with the Inter-American Development Bank to integrate trade and finance, and we are urging the World Bank and the IMF to back their rhetoric on trade with resources.

*Monitoring China's and Taiwan's Compliance with WTO Obligations*

In 2001, the United States played a key role in breaking through logjams to complete the historic accessions of China (after a 15-year effort) and Taiwan (after a 9-year effort) to the WTO. This achievement built on the work of four U.S. Administrations and several Congresses. To achieve a successful result, we solved many multilateral issues, including those relating to agriculture, trading rights, distribution, and insurance, while navigating the political sensitivities to enable China and Taiwan to join the WTO within 24 hours of one another.

Throughout 2002, the Bush Administration worked closely with other countries, as well as the private sector, to monitor China's and Taiwan's compliance with the terms of their WTO membership. On December 11, 2002—the first anniversary of China's accession to the WTO—USTR published a report, pursuant to section 421 of the U.S.-China Relations Act of 2000, updating Congress on compliance by China with its WTO commitments.

Overall, during the first year of its WTO membership, China made significant progress in implementing its WTO commitments. It gained ground by making numerous required systemic changes and by implementing specific commitments, such as tariff reductions, the removal of numerous non-tariff barriers, and the issuance of regulations to increase market access for foreign firms in a variety of services sectors. Nevertheless, we have serious concerns about areas where implementation has not yet occurred or is inadequate—particularly agriculture, intellectual property rights enforcement, and certain services sectors.

An extensive interagency team of experts closely monitors China's WTO compliance efforts. This effort is overseen by the Trade Policy Staff Committee (TPSC) Subcommittee on China WTO Compliance, which is composed of experts from USTR, the Departments of Commerce, State, Agriculture, Treasury, and the U.S. Patent and Trademark Office. It works closely with State Department economic officers, Foreign Commercial Service officers and Market Access and Compliance officers from the Commerce Department, Foreign Agricultural Service officers and Customs attaches at the U.S. Embassy and Consulates General in China, who are active in gathering and analyzing information, maintaining regular contacts with U.S. industries operating in China and maintaining regular contacts with Chinese government officials at key ministries and agencies.

When confronted with compliance problems in 2002, the Administration used all available means to obtain China's full cooperation, including intervention at the highest levels of government. Throughout the year, USTR worked closely with affected U.S. industries on compliance concerns, and utilized bilateral channels through multiple agencies to press them. The Administration also broadened enforcement efforts by working on China issues with like-minded WTO members through the Transitional Review Mechanism and on an ad hoc basis. Through these efforts, the Administration made progress on a number of fronts. For example, we addressed and continue to work on a series of problems arising from China's new biotechnology regulations that threatened U.S. soybean exports—\$1 billion worth in 2001—and other commodities. In the services area, the Administration successfully pressed China to modify new measures that threatened to restrict access by American express delivery firms, and we made progress in dealing with the concerns of U.S. insurance companies regarding China's use of excessively high capitalization requirements and other prudential standards. USTR also established a regular dialogue on compliance with China's lead trade agency, MOFTEC, in September 2002. This dialogue is designed to bring all relevant Chinese ministries and agencies together in one forum to facilitate the resolution of outstanding contentious issues.

Taiwan's accession to the WTO has increased access for a wide range of U.S. goods and services, including agricultural exports, during 2002. However, we continue to track potential compliance problems with Taiwan's WTO commitments, while we work to address existing problems regarding market access for agriculture goods, intellectual property rights protection, and Taiwan's telecommunications

services market. Throughout the year, the Administration worked closely with U.S. industries and other agencies on these compliance and other market access concerns. We used all available bilateral channels to press the Taiwan authorities to address shortcomings in these areas.

The Administration will continue this crucial work in 2003, both to address unresolved concerns and to tackle any new problems that arise. The backing we have received from the Congress—in terms of resources and attention—has been and will remain fundamental to the achievement of our mission. We will work closely with U.S. businesses, farmers, and labor groups—and with China and Taiwan—to address problems and take action when necessary.

#### *Advancing Russia's Accession to the WTO*

The United States has begun a new era in its relations with Russia. Whether in the realms of security, foreign policy, or economics, President Bush has emphasized the need to move beyond Cold War strictures and stereotypes.

To take another step towards closing out the history books of the Cold War, the President has urged the Congress to finally end the application of the Jackson-Vanik amendment to Russia. It has been over a decade since the unification of Germany in 1990 and the dissolution of the Soviet Union in 1991. Furthermore, Russia has been in full compliance with Jackson-Vanik's emigration provisions since 1994. As we move ahead, the Administration will continue consulting closely with various groups on the protection of freedom of religion and other human rights in conjunction with this action.

In 2003, we will continue our intensified effort to negotiate the terms of Russia's accession to the WTO on commercially meaningful terms. President Putin has made WTO membership and integration into the global trading system a priority. We will support Russia as it promotes reforms, further establishes the rule of law in the economy, and adheres to WTO commitments that support a more open economy. This effort needs to include action by the Duma to establish a fully effective legal infrastructure for a market economy.

To achieve a successful WTO accession, Russia must abide by multilateral trade rules, and the United States and 144 other member nations will insist on that course as talks proceed. Working closely with the Congress, the Administration will stress the need for Russia to offer fair market access in important U.S. export sectors—in agriculture and financial services, for example—and to adhere to international standards in areas such as food safety. Unfortunately, Russia's actions on poultry and other meats have sent a negative signal about the seriousness of its commitment to join the WTO. If Russia continues down this path, it risks losing the benefits of WTO membership—and even current levels of market access for its exports.

#### *Advancing Hemispheric Trade Liberalization: The Free Trade Area of the Americas*

On the regional front, the United States has been pressing ahead to create the largest free trade zone in history, covering 800 million people and stretching from Alaska to Tierra del Fuego: the Free Trade Area of the Americas (FTAA). This endeavor will be trying and difficult, yet when completed it will be historic—a fulfillment of a U.S. vision dating to the 19th Century.

In November 2002 in Quito, Ecuador, we energized the FTAA negotiations by agreeing on a firm schedule and deadlines for specific offers to cut tariffs and reduce barriers. Ministers recommitted themselves to the 2005 deadline for completion of negotiations, delivered new instructions to negotiating groups, released an updated draft negotiating text, agreed to tariff reductions from applied rates rather than WTO bound rates, and launched a Hemispheric Cooperation Program to assist in building trade capacity for our poorer partners. Upon the close of the Quito Ministerial, the United States and Brazil assumed co-chairmanship of the FTAA process, providing an opportunity for cooperation with a key partner and economic power as the pace of negotiations accelerates. This month, the United States advanced bold market access proposals for manufactured and consumer goods, agriculture, services, government procurement, and investment. We will also host the next Ministerial meeting in Miami in November 2003.

President Bush, like his counterparts throughout the Americas, knows that the FTAA will be crucial in our quest to build a prosperous and secure hemisphere. Free trade offers the first and best hope of creating the economic growth necessary to alleviate endemic poverty and raise living standards throughout the Americas. The scope of our endeavor is grand: The FTAA will be the largest free market in the world, with a combined gross domestic product of over \$13 trillion.

Hemispheric openness is important in its own right, but it will also have a multiplier effect on growth by encouraging fuller participation by those countries in the

Americas that have been bystanders in the global trading system. FTAA negotiators are developing provisions that will provide trade capacity building and technical assistance to smaller economies in the Americas, especially in the Caribbean. Our FTAA offers also take into account the special circumstances of these small island nations by building on existing patterns of preferential openness.

Fundamental freedoms and human rights are core principles of the Summit of the Americas process, as reiterated in Quito this year. The FTAA will strengthen democracy throughout the Hemisphere—a proposition that is not just theory, but fact. Time and time again, the world has witnessed the evolution from open markets to open political systems, from South Korea to Taiwan to Mexico. Free trade will likewise bolster young democracies in the Americas and the Caribbean.

During the Quito summit, the governments of the Americas also affirmed their commitment to the observance of internationally recognized labor standards. This echoed the agreement by the hemisphere's heads of state at the Third Summit of the Americas to "promote compliance with internationally recognized core labor standards". The Inter-American Conference of Ministers of Labor (IACML) is responsible for implementing the labor-related mandates of the Third Summit of the Americas and represents a parallel process for addressing the labor implications of economic integration. The Department of Labor represents the United States in the IACML and co-chairs the working group charged with examining the labor dimensions of the Summit of the Americas process.

As we continue building support for the FTAA, it will be important to point to the successful record of America's first regional trade agreement, the decade-old NAFTA. Throughout the months ahead, we will continue to publicize NAFTA's substantial benefits and consider additional ways to deepen integration throughout the Americas. NAFTA has been a case study in globalization along a 2,000-mile border; it demonstrates how free trade between developed and developing countries can boost prosperity, economic stability, productive integration, and the development of civil society.

#### *Pressing Other Regional and Bilateral Agreements*

Whether the cause is democracy, expanding commercial opportunity, security, economic integration or free trade, advocates of reform often need to move towards a broad goal step by step—working with willing partners, building coalitions, and gradually expanding the circle of cooperation. Just as modern business markets rely on the integration of networks, we need a web of mutually reinforcing regional and bilateral trade agreements to meet diverse commercial, economic, developmental and political challenges.

In 2002, the Bush Administration completed free trade negotiations with Chile and Singapore. Both of these agreements offer increased opportunities for U.S. businesses, farmers, and workers and send a message to the world that the United States will embrace closer ties with nations that are committed to open markets—whether in the Western Hemisphere, across the Pacific, or beyond the Atlantic. As we moved these FTA negotiations toward completion, we worked closely with the Congress—and the Senate Finance and House Ways and Means Committees in particular—to determine how best to address the concerns and interests of the Congress and the American people. For example, the Chile and Singapore agreements successfully incorporate new approaches to governing e-commerce, labor, investment, and the environment that were articulated in the Trade Act of 2002.

In 2002 we also notified Congress and then launched FTA negotiations with a number of new countries:

- With Morocco, a leading moderate and reformist Arab nation that offers commercial opportunity, which can serve as a model and hub for a region that can gain enormously from economic reforms, and has been a staunch partner in the global effort to defeat terrorism.
- With the five nations of the Central American Common Market—Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua—to encourage economic development and democracy in a region that has shown its potential by already representing \$20 billion trade with the United States and which has made great progress over the decade.
- With the five members of the Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa, and Swaziland), which will be America's first free trade agreement with Sub-Saharan African nations. The 48 countries of sub-Saharan Africa represent a largely untapped market for American business. As these countries progress economically, they will require substantial new infrastructure in sectors as diverse as energy, agriculture, and telecommunications—areas in which U.S. firms lead the world. Thanks to the President's leadership on Africa, there is today a unique convergence of opportunities for us to promote

African development and expand commercial opportunities for American businesses.

- And with Australia, our 14th largest trading partner and a growing economy, a key U. S. ally, and an important center in the network of American companies doing business in the Asia-Pacific region.

These regional and bilateral FTAs will bring substantial economic gains to American families, workers, consumers, farmers, and businesses. They also promote the broader U.S. trade agenda by serving as models, breaking new negotiating ground, and setting high standards. Our agreements with Chile and Singapore, for example, have helped advance U.S. interests in areas such as e-commerce, intellectual property, labor and environmental standards, regulatory transparency, and the burgeoning services trade.

As we work intensively on these FTA negotiations, the United States is learning about the perspectives of our trading partners. Our FTA partners are the vanguard of a new global coalition for open markets. These partners are also helping us to expand support for free trade at home. Each set of talks enables legislators and the public to see the practical benefits of more open trade, often with societies of special interest for reasons of history, geography, security, or other ties. The Bush Administration's FTA initiatives have helped shift the debate in America to the agenda of opening markets, and away from the protectionists' defensive agenda of closing them.

Our regional and bilateral free-trade agenda conveys the message that America is open to trade liberalization with all regions—Latin America, sub-Saharan Africa, the Asia-Pacific, the Arab world—and with both developing and developed economies. In October 2002, President Bush laid the groundwork for future market-opening initiatives by announcing the Enterprise for ASEAN Initiative. The EAI offers the prospect of bilateral FTAs between the United States and those members of the Association of Southeast Asian Nations that are ready to meet the high standards of a U.S. FTA and also pledges to assist countries in joining the WTO. This past year we also signed Trade and Investment Framework Agreements with Sri Lanka, Brunei, the West African Monetary Union, Tunisia, Bahrain, and Thailand. In addition, the United States signed a Comprehensive Trade Package with Hungary in 2002 that lowered barriers to \$180 million worth of U.S. exports per year.

We look forward to discussing these initiatives with the appropriate committees in Congress, and we will seek continued input on these and other possible FTAs.

Over the coming year, we intend to press the goals articulated in the Trade Act of 2002. The President's regional and bilateral free trade agenda—combined with a clear commitment to reducing global barriers to trade through the WTO—will leverage the American economy's size and attractiveness to stimulate competition for openness, moving the world closer, step-by-step, towards the goal of comprehensive free trade.

#### *Building New Bridges: Preferential Trade Programs and Capacity Building*

A free and open trading system is critical for the developing world. As President Bush has pointed out, "Open trade fuels the engines of economic growth that creates new jobs and new income. It applies the power of markets to the needs of the poor. It spurs the process of economic and legal reform. It helps dismantle protectionist bureaucracies that stifle incentive and invite corruption. And open trade reinforces the habits of liberty that sustain democracy over the long term."

Over the past year, the United States has matched its rhetoric on helping developing countries through trade with action. First, the Trade Act of 2002 renewed the Generalized System of Preferences (GSP), which enables some 3,500 products from 140 developing economies to enter the United States free of duties. We have invited countries to submit petitions for products that should be added to the GSP list.

Second, the new Trade Act extended and augmented the Andean Trade Preference Act (ATPA)—first implemented in 1991 by President George H.W. Bush—by increasing the list of duty-free products to some 6,300. ATPA is a vital program for the four Andean democracies on the front lines of the fight against narcotics production and trafficking.

Third, the Act expanded the Caribbean Basin Trade Partnership Act (CBTPA) by liberalizing apparel provisions, providing a vital economic stepping stone for some of the poorest countries in our hemisphere.

Finally, we continued the important implementation of the far-sighted African Growth and Opportunity Act (AGOA), which Congress enacted in May 2000 and expanded with the "AGOA II" provisions of the Trade Act of 2002. AGOA opens the door for African nations to enter the trading system effectively, increases opportunities for U.S. exports and businesses, supports government reforms and transparency, and widens the recognition of the benefits of trade in the United States.



It extends duty-free and quota-free access to the U.S. market for nearly all goods produced in the 38 eligible beneficiary nations of sub-Saharan Africa. Moreover, by providing incentives for African countries to open their markets and improve the environment for trade and investment, AGOA has helped to boost American exports to the region. U.S. merchandise exports to sub-Saharan Africa are up by 25 percent since AGOA's enactment, to nearly \$7 billion last year, led by aircraft, oil and gas field equipment, and motor vehicles and spare parts.

The second annual AGOA forum in January 2003 provided an opportunity to evaluate AGOA's achievements and address implementation challenges. Gathering in Mauritius, members of the U.S. Congressional delegation, Administration officials, and business representatives learned more about AGOA success stories, such as new jobs and investments in Cape Verde, Senegal, Rwanda, and Uganda. The real, positive experiences of American businesses and their African hosts provide models to emulate and help us better address the challenges inherent in promoting growth and commercial opportunities in Africa—particularly the challenge of maximizing and realizing tangible benefits across all the countries in the region.

Moving forward, the Bush Administration is committed to expanding America's economic links with Africa. Most important, we are asking Congress to extend AGOA beyond its 2008 expiration date. We have opened Regional Hubs for Global Competitiveness in Botswana, Kenya, and Ghana in 2002—each staffed with technical experts who will provide support on WTO issues, AGOA implementation, private sector development, and other trade topics. We are adding a specialist to each Hub from the Department of Agriculture to help African farm exports meet U.S. health and safety standards. Finally, we have designated a new Deputy Assistant Trade Representative who focuses exclusively on trade capacity-building activities.

Through AGOA and our other preferential trade programs, the Bush Administration will lend increasing support to developing countries that desire to take part in trade negotiations, implement complex agreements, and use trade as an engine of economic growth. We will build on current partnerships among agencies of the U.S. Government—such as AID, OPIC, and the Department of Agriculture—and with multilateral and regional institutions. Continued advice, encouragement, and support from Congress are vital to this endeavor.

#### *Monitoring and Enforcing Trade Agreements*

For the United States to maintain an effective trade policy and an open international trading system, our citizens must have confidence that trade is fair and works for the good of our people. That means ensuring that other countries live up to their obligations under the trade agreements they sign. Over the past year, we have successfully resolved disputes and aggressively monitored and enforced U.S. rights under international trade agreements and U.S. court rulings in ways that benefit American producers, exporters, and consumers. Sectors that have been affected include entertainment, high-technology, automobiles, and agriculture.

In 2003, we will seek to resolve favorably other trade disputes in a way that best serves America's interests. Among the most prominent cases are: telecommunications and sweeteners with Mexico; softwood lumber with Canada; beef with the European Union; and apples with Japan.

The United States should also live up to its obligations under WTO rules. In particular, the Administration needs the assistance of the Congress to come into compliance in cases dealing with the FSC/ETI law, the 1916 Act, the "Irish Music" copyright violation, the "Byrd Amendment," section 211 of the Omnibus Appropriations Act of 1998, and hot-rolled steel. We recognize that each matter involves sensitive interests. Yet America should keep its word, just as we insist others must do. As the largest trading nation, the WTO rules serve U.S. interests. We will work closely with the Congress to determine approaches to resolve these issues.

We intend to continue addressing unjustified science and health measures that impede farm exports, and undermine safe and productive innovation in agriculture. We will be vigilant in defending the right to market safe agricultural biotechnology products in Europe and elsewhere—the continuation of a long tradition in agricultural progress—which holds out great potential for mitigating the environmental impact of food production, nourishing the world's expanding population, improving health and nutrition, and bolstering farmers' productivity and prosperity around the world, most especially in the developing world.

The current EU moratorium on biotechnology is in violation of both WTO rules and the EU's own laws. The Administration, leaders of Congress, and our agriculture community have made clear that we believe the EU should lift its moratorium on biotech products, and we are working with others to determine the most expeditious way to get it to do so.

*Preserving Safeguards and Trade Laws Against Unfair Practices*

One of the principal negotiating objectives of the Trade Act of 2002 is to “preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements which lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions.”

Maintaining public support for open trade means providing appropriate assistance to those industries that find it difficult to adjust promptly to the rapid changes unleashed by technology, trade, and other forces. We will continue our commitment to the effective use of statutory safeguards, consistent with WTO rules, to assist American producers. Used properly, these safeguards—such as Section 201 of the Trade Act of 1974—can give producers vital breathing space while they restructure and regain competitiveness.

For example, on March 5, 2002, in response to a unanimous finding by the U.S. International Trade Commission (ITC) that imports were a substantial cause of serious injury to the U.S. steel industry, the President announced temporary tariffs on imports of certain steel products. The ITC safeguard investigation was part of a three-pronged initiative announced on June 5, 2001, that also included negotiations at the Organization for Economic Cooperation and Development (OECD) to encourage the reduction of excess global capacity and to eliminate the market-distorting subsidies that led to current overcapacity.

The President’s approach has given the U.S. steel industry and its workers the chance to adjust to import competition while safeguarding the needs of steel consumers. The Section 201 remedy preserved access to specialty steels by excluding over 700 products from the increased tariffs. In addition, the tariffs did not apply to imports from countries that have committed to the highest level of reciprocal market access—our NAFTA and other FTA partners. Most developing countries have also continued to enjoy open access to the U.S. steel market.

Since the temporary tariffs took effect, domestic steel companies have taken serious steps to restructure and increase productivity. As of January 2003, these steps included: International Steel Group’s (ISG) purchase of the steel-making assets of LTV Corporation and Acme Steel; ISG’s offer to purchase the assets of Bethlehem Steel; two competing offers to purchase National Steel Corp.; the negotiation of a ground-breaking labor contract between the United Steelworkers of America and ISG; and numerous mergers and acquisitions in the minimill sector.

We made important progress in the OECD steel negotiations in 2002. Participants established a peer review process to examine global steel capacity closures and decided to immediately develop the elements of an agreement for cutting trade-distorting subsidies in steel.

Given America’s relative openness, strong, effective laws against unfair practices are important for maintaining domestic support for trade. This Administration has used and continues to back the use of these laws. At the same time, however, we recognize that the recent proliferation overseas of anti-dumping laws in particular has resulted in abuses against U.S. exporters by countries that do not apply their laws in a fair and transparent manner. Our objective in the WTO negotiations is to curb abuses while preserving the basic concepts, principles, and effectiveness of unfair trade laws. Moreover, the United States has insisted that any discussion of trade remedy laws must also address the underlying subsidy and dumping practices that give rise to the need for trade remedies in the first place.

We continue to advance an affirmative U.S. agenda, targeting the increasing misuse of these laws, particularly by developing countries, to block U.S. exports. From 1995 through the first half of 2002, there were 105 investigations by 18 countries of U.S. exporters. The most frequently targeted U.S. industries are chemical, steel, and other metal producers, although U.S. farm products are increasingly being blocked. The WTO negotiations will help us address significant shortcomings in foreign anti-dumping and countervailing duty procedures by more clearly defining the specific circumstances that give rise to unfair trade, improving transparency in how anti-dumping laws are applied, and strengthening due process.

*Aligning Trade with America’s Values*

America’s trade agenda needs to be aligned securely with the values of our society. Trade promotes freedom by supporting the development of the private sector, encouraging the rule of law, spurring economic liberty, and increasing freedom of choice. Trade also serves our security interests in the campaign against terrorism by helping to tackle the global challenges of poverty and privation. Poverty does not

cause terrorism, but there is little doubt that poor, fragmented societies can become havens in which terrorists can thrive.

Developing countries have much to gain by joining the global trading system. From Seoul to Santiago, when trade grows, income follows. The World Bank conducted a study of developing countries that opened themselves to global competition in the 1990s and of those that did not. The income per person for globalizing developing countries grew by five percent a year, while incomes in non-globalizing poor countries grew just over one percent. Developing countries that embraced trade and openness sharply reduced absolute poverty rates over the last 20 years, and the income levels of the poorest households have kept up with the growth.

By knitting America to peoples beyond our shores, new U.S. trade agreements can also encourage reforms that will help establish the basic building blocks for long-term development in open societies, including:

- *The rule of law*: Trade agreements encourage the development of enforceable contracts and fair, transparent governance—helping to expose corruption.
- *Private property rights*: These are a necessary ingredient for economic development because they encourage saving, investment, exchange, and entrepreneurship. Trade agreements bolster property rights by safeguarding the right to establish businesses, guaranteeing that investments will not be appropriated arbitrarily, supporting privatization, and fostering knowledge industries.
- *Competition*: Free trade fosters competition, the hallmark of successful economies. Developing countries suffer at the hands of elites who cling to their positions by depriving ordinary citizens of less-expensive, better-quality goods and services that can be had through competition. Free trade agreements attack manipulated licensing systems, state monopolies and oligarchies that keep affordable products off store shelves.
- *Sectoral reform*: Trade agreements drive market reforms in sectors ranging from e-commerce to farming. For example, in our FTA discussions with Morocco, we are examining how we can work with Morocco's World Bank program to restructure its agricultural sector. The United States has also advanced an aggressive agriculture reform proposal in the WTO negotiations that would eliminate \$100 billion globally in trade-distorting farm subsidies and lead to better agricultural policies in developed and developing countries alike.
- *Regional integration*: The lesson of the European Union and NAFTA is that location matters, in economics as in politics. Therefore, as FTA negotiations with democracies in Central America and Southern Africa progress, we will explore how best to support beneficial regional integration and promote growth clusters.

From its first days, the Bush Administration recognized that poor countries cannot succeed with economic reform and growth if they are eviscerated by pandemics. Flexibility on the implementation of intellectual property protection, and lower-priced medicines, must be part of a larger global response to health pandemics, involving education, prevention, care, training, and treatment. The United States is committed to supplying funds for HIV/AIDS, tuberculosis, and malaria assistance, funding related research, prevention, care, and treatment programs, much of which helps to address problems in developing countries.

The United States was the first contributor—and remains the largest—to the international “Global Fund to Fight AIDS, TB and Malaria.” The seriousness of the Administration’s commitment to battle AIDS was recently underscored by President Bush’s dramatic call for a tripling of U.S. AIDS spending—to \$15 billion over the next five years—to establish an Emergency Plan for AIDS Relief. This comprehensive program is designed to prevent 7 million new AIDS infections, treat at least 2 million people with life-extending drugs, provide humane care for millions of people suffering from AIDS, and meet the needs of children orphaned by AIDS.

Free trade is about freedom. This value is at the heart of our larger reform and development agenda. Just as U.S. economic policy after World War II helped establish democracy in Western Europe and Japan, today’s free trade agenda will both open new markets for the United States and strengthen fragile democracies in Central and South America, Africa, and Asia.

#### *Promoting a Cleaner Environment Better Working Conditions, and Investment Protection*

Free trade promotes free markets, economic growth, expanded employment opportunities, and higher incomes. As countries grow wealthier, their citizens demand better working conditions and a cleaner environment. Economic growth gives governments more resources and incentives to promote and enforce strong standards in these areas.

The Trade Act of 2002 gave us detailed guidance on the continued incorporation of labor and environmental issues into U.S. trade agreements, representing a deli-

cate balance across the spectrum of concerns. The Administration has been drawing on this guidance—and would welcome additional insights—as we pursue these topics in our current trade negotiations. Similarly, we are conducting discussions with non-governmental organizations and the business community to ascertain how we can address concerns posed about investment provisions in trade agreements.

The Chile and Singapore FTAs incorporate Congressional guidance into a robust environment and labor packages that place obligations within the text of these agreements and emphasize the importance of cooperative action. These FTAs encourage higher levels of environmental and labor protection, and obligate the signatories to effectively enforce their domestic labor and environmental laws. This “effective enforcement provision” is subject to dispute settlement and backed by equivalent penalties to press full compliance.

In the case of Singapore—a small developed country with limited available land—cooperative efforts will focus on combating the illegal wildlife trade and on building environmental capacity in Singapore’s Southeast Asian neighbors. With Chile, we recognized a need for broader initiatives, both to address the special needs of a natural resource-based economy and to build environmental capacity in the Southern Cone. The U.S.-Chile FTA sets out eight initial cooperative projects and calls for the negotiation of a separate environmental cooperation agreement.

On labor, the Trade Act of 2002 directed the Administration “to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization.” In our FTAs with Chile and Singapore, we reaffirmed our respective obligations as members of the ILO and committed to uphold the ILO Declaration on Fundamental Principles and Rights at Work. We examined carefully the domestic labor laws in Chile and Singapore, and verified that their laws did, in fact, adequately respect the ILO’s core worker rights. We also achieved a principal negotiating objective of TPA by including labor provisions that obligate signatories to effectively enforce domestic labor laws when they may affect trade. In support of the goal to promote respect for worker rights, the United States and Chile agreed to move forward on two labor technical cooperation projects—labor justice reform and labor law compliance. In 2003, the United States will seek to negotiate labor and environment clauses in our trade agreements with the five Central American countries, Morocco, Southern Africa, and Australia.

The Chile and Singapore FTAs include an innovative system of monetary assessments to help settle labor and environmental disputes in a manner equivalent to how we resolve commercial disputes. In these agreements, the first course of action in a labor, environmental, or commercial dispute will be consultation. If this fails, however, all disputes will be handled through the same settlement procedures. If these procedures fail to bring an offending party into compliance, fines are a possibility—the funds from which will be earmarked for measures to address the underlying labor or environmental problems. This system creates an incentive to comply to avoid fines, and also serves to reduce the likelihood of future non-compliance by using funds to remedy enforcement deficiencies. Only as a last resort—in cases of non-compliance and a failure to pay a monetary assessment—will FTA signatories have recourse to withdraw trade benefits. And those actions must be, as Congress directed, “appropriate” to the severity of the violation.

The Administration has also addressed Congressional concerns about the intersections among investment, labor, and environmental protections. The Singapore and Chile FTAs provide greater transparency and accountability in the disputes investors can bring against host governments and ensure U.S. investors abroad get the same level of protection afforded under U.S. domestic law. These agreements incorporate foreign investment negotiating objectives from the Trade Act of 2002, including the authorization of *amicus curiae* submissions and public access to investor-state arbitration hearings and documents. In addition, the United States, Singapore, and Chile committed to explore the development and use of appellate mechanisms in investor-state dispute settlement and agreed on provisions aimed at eliminating and deterring frivolous claims. Drawing upon U.S. legal principles and practice, we clarified the obligations on expropriation and “fair and equitable” treatment.

In the Doha Development Agenda, we are taking similar practical steps to demonstrate that good environmental, labor, and investment policies can be economically sound. In addition, we are working to encourage a healthy “network” among multilateral environmental agreements and the WTO, enhance institutional cooperation, and foster compatible, supportive regimes. This precedent will help to interconnect the WTO with other specialized organizations, such as the ILO.

We know the importance of these topics for many Members of Congress who want to ensure that the benefits of trade and openness in spurring growth, productivity, and higher incomes are accompanied by enhanced scrutiny and transparency of labor and environmental laws and conditions. Some stress the need to safeguard

America's sovereign rights in setting our own standards, while other Members want to deploy trade agreements to compel other nations to accept the standards we prefer. Some believe that the influence and investment of U.S. companies abroad will lead to higher standards and codes of behavior, while others fear the reach of globalized companies. It is our goal to use the guidance Congress has given to bridge the differences, build a stronger consensus, and make a real, positive difference for America and the world.

*Conclusion: Pressing the Free Trade Agenda Forward*

In the coming year, the United States will continue to make the case for the win-win nature of trade. Expanded trade—imports as well as exports—improves the well being of people everywhere. Trade promotes more competitive businesses, as well as the availability of more choices of goods and inputs, with lower prices.

America's economy depends on trade. Businesses, small and large, sell and ship their products around the globe. At the same time, U. S. manufacturers rely on imported inputs to production to stay competitive with foreign producers. Over the past decade, U.S. exports accounted for about a quarter of our country's economic growth. Our exports support about 12 million jobs—jobs that pay wages 13 percent to 18 percent higher than the U.S. average because they have higher productivity. One in three acres on American farms—accounting for over \$56 billion in annual sales—is planted for export. And opening foreign markets is critical to the future growth of America's diverse services sector.

President Bush understands the connection between “a world that trades in freedom” and America's interests in promoting a strong world economy, lifting societies out of poverty, and reinforcing the habits of liberty. Having reestablished U.S. trade leadership around the globe, the President is now working with Congress on an activist agenda to expand economic freedom at home and abroad.

I appreciate the Committee's interest and support in trade and look forward to working with you, Mr. Chairman, and other Members of the Committee to advance a strong, successful trade agenda.

## **Competitive Liberalization**

### ***America's Trade Strategy***

*for*

*Committee on Finance*

*U.S. Senate*

*March 5, 2003*

**Executive Office of the President**

**Office of the United States Trade Representative**

## **Competitive Liberalization**

- **Promote free trade through multiple initiatives:**
  - **Global**
  - **Regional**
  - **Bilateral**
  
- **Moving on multiple fronts allows the United States to:**
  - **Help U.S. workers, exporters, consumers**
  - **Exert leverage for openness**
  - **Put free trade “on offense”**

## **Competitive Liberalization**

*2001-2002*

### **Overall**

- **Regained momentum for trade at home and abroad with U.S. leadership**
- **Connected trade to global growth, development, rule of law, & open societies**
- **Connected trade to broad concept of security, post-9/11**

## **Competitive Liberalization**

*2001-2002*

- **Trade Act of 2002, including TPA, ATPA expansion, AGOA II, GSP extension, Trade Adjustment Assistance**
- **Launch of new Doha Development Agenda in WTO**
- **Completed negotiations on accession of China, Taiwan to WTO**
- **Moved Free Trade Area of the Americas (FTAA) into stage of concrete negotiations**
- **Steel safeguards**
- **Passed Jordan FTA, Vietnam bilateral trade agreement**
- **Completed Singapore and Chile FTAs**
- **Launched new FTAs**

## **Competitive Liberalization**

*Global Initiatives*

- **World Trade Organization – Doha Development Agenda**
  - **Launched at Doha, Qatar: November 2001**
  - **144 participants**
  - **Next Ministerial Meeting: Cancun, September 2003**
  - **Target date for completion: January 2005**
- **Bold U.S. proposals for market access:**
  - **Agriculture**
  - **Consumer & Industrial Goods**
  - **Services**

## **Competitive Liberalization**

### *U.S. Proposals at WTO*

#### **Agriculture**

- Eliminate agricultural export subsidies
- Cut average world farm tariffs from 60% to 15%
- Agree on date for eventual tariff elimination
- Cut trade-distorting domestic farm support \$100b

#### **Consumer & Industrial Goods**

- Cut all tariffs at/under 5% to zero by 2010
- Cut all other tariffs to less than 8% by 2010
- “Tariff-free World” by 2015
- Zero as soon as possible in key U.S. export sectors

## **Competitive Liberalization**

### *U.S. Proposals at WTO*

Services - Seek liberalization in key sectors, for example:

<b>Telecom services</b>	<b>Distribution &amp; retailing</b>
<b>Financial services</b>	<b>Education &amp; training services</b>
<b>Express delivery services</b>	<b>Lodging &amp; tourism services</b>
<b>Energy services</b>	<b>Professional services</b>
<b>Environmental services</b>	<b>Computer &amp; related services</b>
<b>Advertising &amp; audiovisual services</b>	



## **Competitive Liberalization**

### *Regional Initiatives*

#### **Free Trade Area of the Americas (FTAA)**

- 34 participants in Western Hemisphere
- Target for completion: January 2005
- U.S. and Brazil are now co-chairs
- First comprehensive offers for goods, agriculture, services, government procurement, investment in February 2003
- Next ministerial meeting: Miami, November 2003

## **Competitive Liberalization**

### *Bilateral Initiatives*

#### **Why pursue bilateral initiatives?**

- Level the playing field for U.S. firms and workers
- Create competitive dynamic to liberalize
- Link liberalization to sectoral reforms
- Encourage regional integration & investment
- Cement economic and political reforms
- Create allies for WTO and FTAA talks
- Break new ground and set higher standards

## Competitive Liberalization

### *Bilateral Initiatives*

- *Singapore & Chile FTAs*
  - Concluded 4Q 2002
  - Congressional consideration hoped for in 2003
- *Central America FTA (CAFTA)*
  - Launched January 2003; completion target – end 2003
- *Morocco FTA*
  - Launched January 2003; completion target – end 2003
- *Southern Africa FTA (Southern African Customs Union)*
  - Launched January 2003
- *Australia FTA*
  - Launched: February 2003

## *Other Issues*

### *A Look Ahead*

- **Follow-through on China, Taiwan WTO accession**
- **Russia's accession to WTO**
- **Enforcement actions in WTO, NAFTA, other agreements**
- **Compliance with WTO rulings/trade retaliation**
- **Small business: trade opportunities**
- **Trade capacity building for developing countries**
- **AGOA III, Laos NTR**
- **Environment & Trade, Labor Conditions & Trade**
- **HIV/AIDS: access to medicines and funding**

#### RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY

*Question 1:* In a March 3, 2003 editorial in the Wall Street Journal, the European Trade Commissioner Pascal Lamy proposed that the United States and EU make 2003 “the year of WTO compliance.”

Yet, the dispute between the U.S. and European Union over the EU's ban on beef hormones has yet to be resolved. Further, the European Commission has made it clear that the ten countries of Central and Eastern Europe acceding to the Euro-

pean Union will also be required to enforce the beef hormone ban upon EU membership. Thus, not only is there lack of true compliance in the beef hormone case by the European Union, they are now requiring other nations who desire to become part of the EU to follow WTO noncompliant policies. On bananas, which was the one case in which Europe was willing to reach an agreement with the United States to address its WTO violations, there is also a risk that EU enlargement next year will undermine that agreement.

I know you are working on these issues and I thank you for that. On beef hormones, do you think it is appropriate for the EU to be promoting the spread of non-compliant WTO policies to Eastern Europe?

And, on bananas, as the EU moves to finalize its enlargement policies, has it yet demonstrated how those policies will honor the U.S.-EU Agreement?

*Answer:* No, it is not appropriate for the EU to be extending WTO-inconsistent regulations to accession states. As part of its WTO obligations, the EU is required to negotiate the impact of enlargement with its trading partners. While a date for these negotiations has yet to be set, all issues that will be impacted by the enlargement of the EU next year will be on the table for discussion, including the issue of additional compensation for loss of U.S. beef sales to the EU, as a result of its ban on beef from cattle treated with growth hormones. Any additional compensation we may get as a result of enlargement will depend, in large measure, on current U.S. beef trade with the ten acceding countries.

We have repeatedly stressed to the EU the importance of observing the terms of our Understanding on Bananas in finalizing the terms of accession of the ten Central and Eastern European countries in their enlargement process. I have personally discussed this issue with EU Trade Commissioner Lamy and Agriculture Commissioner Fischler. In these discussions, the EU has assured us that we would continue to have the opportunity to raise our concerns on enlargement before any final decisions are made. We have had no indications to date that the EU does not intend to abide by the Bananas Understanding in finalizing their enlargement policies.

*Question 2:* I am profoundly disappointed by the fact that the Administration is delaying action on a WTO case against the EU's biotech policies.

So, if not now, when? When do you believe is the "appropriate point," to bring legal action against the EU on this issue?

*Answer:* You asked about the Administration's position regarding EU biotech policies. Biotechnology holds great promise for increasing productivity of farmers, nourishing the world's expanding population, and mitigating agriculture's environmental burdens. Indeed, current biotech crops that help control insects and weeds lower production costs and increase harvests, and some significantly reduce pesticide pollution. Future biotech products may carry traits that improve nutrition and health. These innovations present important benefits for our farmers and consumers, but also for farmers and consumers in developing countries.

Notwithstanding the benefits of biotechnology, the EU has pursued a series of anti-biotech policies undermining innovation and trade in agricultural products. First, for nearly five years the EU has obdurately refused even to consider approving any agricultural biotech applications (the "approvals moratorium"). Second, several member states have imposed unjustified import bans on biotech products previously authorized by the EU. Third, the EU is considering a proposed Biotech Traceability and Labeling Regulation that will impose burdensome document-trail requirements and mandate biotech labels likely to confuse consumers.

These anti-biotech policies, pursued by a major trading block with a tradition of using innovation outside of agriculture, cast a pall over the technology's development. These policies are harmful to our exports and further innovation in our agriculture, and the effects of these policies are particularly pernicious for consumers and marginal farmers in developing countries.

The United States is not alone in its criticisms of the EU's abnegation of responsibility. The Administration has been considering a challenge of the EU approvals moratorium and the national import bans. Also, while the proposed Traceability and Labeling Regulation is not ripe for challenge as it has not yet been adopted, the Administration has made its concerns known to the EU.

*Question 3:* I understand there are a number of Assistant USTR positions that are now or soon will be vacant within your Agency. I am sure you will agree that this is a big concern given all of the trade developments going on at this time. When do you plan to fill these positions and do you have plans to increase your staffing levels?

*Answer:* As of now, all of our Assistant USTR positions are filled, with the exception of the Assistant USTR for Environment and Natural Resources. We are in the process of reviewing candidates for the Environment position, and hope to select a candidate in April. The Congress authorized six new negotiator positions in FY

2003, and the President has requested an additional eight trade professionals in FY 2004. We do have plans to fill vacant positions, and are now in the process of filling several positions.

*Question 4:* Ambassador Zoellick, the US copyright industries are one of America's most vital economic exports. Unfortunately, their future health may be in jeopardy as a result of the staggering increase in piracy. The International Intellectual Property Alliance recently submitted a report to your office that details over \$9 billion in losses to the US economy last year alone.

USTR's work to strengthen the international copyright laws has been terrific. I commend you for your efforts.

I would like to ask you about the enforcement of new rules, as well as those already in existence. Can you tell us how you address these enforcement issues, both during the negotiation of agreements as well as afterwards? Do you think that countries realize that their failure to provide effective enforcement of existing rules undermines Congressional confidence in and support for some trade agreements?

*Answer:* As you know, enforcement is one of the central issues addressed in the IP chapters of our FTAs. The goal of the enforcement provisions is to significantly bolster domestic procedures for the enforcement of intellectual property rights, not only by ensuring that government agencies have the authority necessary to prosecute these cases, but also to ensure they can stop infringing goods at their borders. In addition, the provisions ensure that our FTA partners provide IP rights holders with all the tools they need to pursue their cases in the civil context.

In countries where enforcement of intellectual property rights is inadequate, the major reasons for poor enforcement include: inadequate laws, lack of resources for enforcement, and a lack of willingness to enforce the laws. Perhaps the most significant factor is a lack of understanding about the importance of intellectual property protection and hence a lack of political will to make enforcement a priority.

Once other countries recognize the harm piracy causes to their own interests, they generally develop the political will to address it. From that political will flows improved laws and a commitment of the resources necessary to enforce those laws. Hong Kong is a particular case in point. Once Hong Kong decided the problem of piracy was a priority, the mechanisms to address it fell into place. For example, Hong Kong established regulations to license production of optical media such as CDs and DVDs to combat the production of pirate copies. These regulations are now a model for other countries in the region to follow in their efforts to address pirate optical media production.

*Question 4 (cont'd):* Are there models of successful enforcement strategies that have been developed and implemented? What can we learn from the successes?

*Answer 4 (cont'd):* Yes, there are models for successful enforcement. Global piracy of optical media such as CDs, DVDs, CD-ROMs causes the greatest losses to copyright industries. To combat this problem, we have pressed governments whose optical disc production facilities are producing significant pirate product to implement a specialized regulatory framework to reduce the level of pirate production. This regulatory regime includes strict licensing controls on the operation of these facilities, including the use of identification tools that flag the plant in which production occurred and that help lead the authorities to the infringer. So far, we have successfully pressed for the establishment of such regimes in China, Bulgaria, Hong Kong, Malaysia, Taiwan and Macau. In addition, Singapore recently agreed as part of our FTA to establish such regulations. Thailand, the Philippines, Vietnam, are among some of the countries we are working with now to put similar regulations in place.

#### RESPONSES TO QUESTIONS FROM SENATOR BAUCUS

*Question 1:* Section 2102(a)(8) of the Trade Promotion Authority (TPA) provisions of the Trade Act of 2002 sets out a principal negotiating objective of the United States that calls for the modification of WTO rules which favor nations that rely primarily on value-added, sales, excise, and other indirect taxes—e.g., EU member states—and disadvantage countries like United States that rely primarily on income or direct taxes. The legislative history behind this negotiating objective makes clear not only that the United States needs to address this longstanding imbalance in WTO rules, but it also must ensure that U.S. exporters that now benefit from the ETI are not placed at a permanent competitive disadvantage as a result of the WTO dispute-settlement proceedings initiated by the EU against ETI and its predecessor, the former U.S. Foreign Sales Corporation (FSC) tax provisions (i.e., H.R. Rep. No. 107-624 at 157 (2002) and S. Rep. No. 107-139 at 35-36 (2002)). This negotiating objective was included in TPA as a result of strong support from the U.S. business community, and it enjoyed broad bipartisan support within the Congress. It must be given the same weight and attention as other TPA negotiating objectives. Accord-

ingly, Mr. Ambassador, I am eager to hear from you how the Administration intends to give effect to the Border Tax Adjustment negotiating objective and its legislative history. It was our understanding, based on statements your office has made in the past, that one way the United States might do so would be to table these issues for discussion as part of the "Rules" negotiations in the WTO Doha Round. However, recent U.S. draft position papers on the "Rules" negotiations makes no reference to these issues. I would, therefore, also appreciate clarification on whether the U.S. position on "Rules" will soon be augmented to address the Border Tax Adjustment negotiating objective and its legislative history or whether you have an alternative means of achieving what I hope are our shared ends.

*Answer:* In accordance with the negotiating objectives set out in the Trade Promotion Authority (TPA) provisions of the Trade Act of 2002, the Administration has raised the issue of the different WTO rules for direct and indirect taxes in a recent submission to the "Rules Negotiating Group." While our March 19, 2003 submission acknowledges the intent to comply with our WTO obligations, it noted the differential treatment of direct and indirect taxation, and stated that we believe that "an essential part of the work of the Rules Group should be to work toward greater equalization in the treatment of various tax systems that, at least with regard to their subsidy-like effects, have only superficial differences."

*Question 2:* Mr. Ambassador, I noticed with interest your recent trip to China. I am very disturbed by the unacceptably slow pace of implementation of its agriculture commitments. The possibility that they might extend for another year required testing on GMO soybeans is ridiculous—this is a trading partner that was supposed to be an ally in our fight on biotechnology.

Their violation of commitments regarding TRQ administration remains unresolved. On top of this, I am hearing troubling reports from wheat growers in my home state of Montana that China may soon start offering export subsidies to its own wheat farmers.

Outside of agriculture, we are seeing problems in area such as intellectual property and semiconductors. It has been more than a year since China's accession into the WTO, and yet the problems seem to be mounting with little progress being made.

Their honeymoon is over. I support suggestions you've made that we may have to take China to the WTO regarding its administration of agriculture TRQs. But this would only address one piece of the puzzle. Taken in the aggregate, China's problems give one the impression of a much larger, more systematic problem.

What is being done, and what can Congress do, to address China's growing implementation problem comprehensively?

*Answer:* The Administration is taking a comprehensive approach to addressing concerns with China's implementation of its WTO commitments. In our December 2002 report to Congress on this subject, the Administration identified a number of areas of systemic concern: transparency, agriculture, services and protection of intellectual property rights. Throughout 2002, the Administration engaged China on these issues at all levels of government, across multiple agencies and government disciplines. We have a well-established interagency process that monitors China's WTO compliance and develops appropriate strategies to manage concerns as they arise.

While we have yet to formally initiate WTO dispute settlement proceedings, we have used both bilateral and multilateral fora to press our concerns. We have raised numerous industrial, agricultural and services market access concerns in the WTO, worked closely with like-minded third countries on these concerns, and vigorously pursued U.S. interests during Geneva meetings of China's Transitional Review Mechanism called for by Paragraph 18 of China's WTO accession protocol. Bilateral trade matters are squarely on the agenda of senior Administration officials who meet with Chinese counterparts, and resolution of these concerns is understood by China to be a central priority for the United States. In February of this year, USTR launched a dialogue on bilateral and multilateral trade concerns, which we anticipate will take place several times per year. That effort draws USTR and other agencies with a central role in international economic policy together with Chinese counterparts to identify key areas of potential dispute and attempt to resolve those matters short of WTO dispute resolution.

While we recognize China's task in implementing its WTO commitments to be a massive undertaking, the Administration does not believe this fact excuses China from full implementation. We have been diligent in identifying implementation problems, and have taken a practical and determined approach to their resolution. When we have exhausted efforts to resolve an issue cooperatively, we will not hesitate to pursue our rights under the WTO. As noted by your question, our patience is not limitless, and has most recently been taxed by our efforts to resolve problems

with China's management of its tariff-rate quota system for bulk agricultural products. We are making a final attempt at resolving those concerns cooperatively, but are preparing for other courses of action if those prove necessary.

*Question 3:* As you know, last week, this Committee approved a Sense of the Senate that expresses our concern with the first Harbinson text on the WTO agriculture negotiations. I understand there is a push for Chairman Harbinson to submit a second draft. I hope that this draft will better reflect the need for real and substantial reform of the global trade in agriculture.

First, and foremost, it's important to remember that the EU has more than three times the subsidies that the U.S. does. It is not enough to reduce these subsidies proportionately that would simply lock in an unfair EU advantage. We must create fairness for U.S. farmers.

Second, the absurdly high barriers to market access that exist, frankly, all over the world must be addressed and reduced *dramatically*. What is the current state of these negotiations, what is the prospect for a second, more acceptable Harbinson draft in the very near future, and what is the U.S. doing to bring along other countries to a successful solution?

*Answer:* We are working hard in the WTO negotiations to reach an agreement that creates a more market-oriented agricultural trading system because it will be good for global growth and development and will deliver real benefits for American farmers. We have made clear from the beginning that fundamental reform is needed in world agricultural trade, and at the core that means high levels of tariffs and trade-distorting domestic support must be reduced. Moreover, these must be reduced in a manner that addresses the disparities that exist between countries. We are continuing to press hard on this position in Geneva, where we have emphasized the need to improve the draft modalities to achieve a more reformist and fair result. We have been disappointed by both the first and second draft modality papers because they do not go far enough toward reducing trade-distortions and achieving harmonization. In the negotiations, we are working with other countries seeking reform to advocate for a more ambitious and harmonizing result in the negotiations. In addition, we have invested substantial resources in educating other countries, particularly developing countries, on the importance of meaningful reform and the unique opportunity presented by the WTO negotiations. We will continue to work with these like-minded countries even as we engage with the EU, Japan and other countries that to date have not shared our vision for a more market-oriented agricultural trading system.

*Question 4:* Ambassador Zoellick, last month I introduced legislation to end the embargo with Cuba and to allow Americans to travel freely to Cuba.

I think we all know that current U.S. policy is nearing an end. It has failed. I believe that Congress will begin to ease trade and travel restrictions in the next few years—if not this year.

So—leaving aside the political debate on whether to engage Cuba, I want to ask you about how we engage Cuba. I want to ask you—as an advocate for open trade and increased opportunity: What are the ways in which Congress can best help our farmers and companies compete? Some have suggested allowing more cash sales—beyond the agriculture and medicine sales that are currently allowed. Some have suggested lifting the travel restrictions. There are a number of good ideas. Of course, I want to do it all—but if we can't, what can we do to create the most opportunities?

*Answer:* On May 20, 2002, President Bush announced his "Initiative for a New Cuba." The President's initiative calls on the Cuban government to undertake political and economic reforms, conduct free and fair elections for the National Assembly, open its economy, allow independent trade unions, and end repressive practices against the Cuban people.

President Bush indicated that the Administration is prepared to work with the U.S. Congress to ease trade and travel restrictions between the United States and Cuba once the Cuban government has undertaken meaningful reforms. To date, we have seen no evidence that any type of reform is taking place in Cuba. To the contrary, during the last few weeks, the Castro regime has carried out its most egregious act of political repression in a decade, arresting more than 100 pro-democracy activists. In addition, the regime sentenced 75 of these civil society activists to sentences averaging 20 years in prison. On April 17, the international community once again expressed its concern about the grave human rights situation in Cuba by adopting a resolution on Cuba at the UN Human Rights Commission introduced by its Latin American neighbors Peru, Uruguay and Costa Rica.

The Administration has maintained its commitment to implementing the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000. Since the enactment of TSRA, the U.S. government has issued authorizations permitting the sales

of agricultural commodities totaling \$1.7 billion. The latest Department of Commerce figures indicate that, from December 2001 through January 2003, over \$159 million in sales had actually taken place.

We believe that the President's initiative offers the best possibility for a positive outcome by encouraging a rapid and peaceful transition to a democratic government characterized by strong support for human rights and an open market economy. Not until there is progress toward an open market economy will Cuba be regarded as a reliable trading partner.

*Question 5:* I think we have a window of opportunity when it comes to selecting new countries to negotiate free trade agreements with. I hope that we can work together to come up with criteria that makes sense, and agree on a path forward.

I am interested in your thoughts on the countries that the Administration may be considering. One country that many are suggesting is Taiwan, which is currently our 10th largest export market—and 5th largest export market for agriculture products.

What is the criteria that the Administration will base future decisions on, and what countries are being considered?

*Answer:* As you know, the Administration is pursuing a strategy of competition in liberalization by pressing forward simultaneously on multilateral, regional, and bilateral fronts. The decision to launch a bilateral FTA negotiation is complex, involving a range of economic, political and domestic considerations, and no single issue is determinative. The United States is open to free trade with all regions, and with both developed and developing economies. But there are some common considerations, and they are evident in the negotiations the U.S. has already announced.

First, it is important to look at the nature of the economic and commercial relationship of the FTA partner. The size of trade flows is one factor, but not the only one. Our free-trade partners vary greatly in both size and development, and the market access issues we face vary greatly as well. Second, the United States is seeking to negotiate state-of-the-art FTAs. The U.S. is using bilateral FTAs as models to break new ground and set new higher standards, for example in protecting intellectual property. A third consideration is the importance of FTAs in supporting economic reform, regional integration, and political development in potential trading partners. For example, the Central America FTA will serve the important purpose of helping these small developing economies lock in the steps they have taken toward economic reform and political openness.

Similarly, helping to cement the reforms of a moderate Arab state like Morocco, or a developing country in Africa like Namibia, is an important reason to pursue an FTA. Finally, it is important to consider the views of U.S. domestic audiences, most importantly the Congress. TPA requires that the Administration consult closely with Congress on our trade strategy, and we are doing so.

Taiwan is an important trading partner, one with which we have an excellent relationship. As a fairly new WTO member, Taiwan is appropriately focused on implementing its current WTO commitments, as well as longstanding bilateral commitments to the United States. In a variety of sectors, particularly IPR, agriculture and telecom services, Taiwan's implementation of current obligations is not complete. We believe Taiwan should fulfill its existing commitments before taking on any extensive new ones of the type that would emerge from an FTA negotiation.

*Question 6:* The US audiovisual services industry is a significant exporter and a large contributor to the US GDP and job growth in the U.S. Do you see ways in which to develop multilateral support to advance trade in audiovisual services?

*Answer:* Considerable controversy surrounded audiovisual (AV) services at the conclusion of the Uruguay Round. Since then, we have worked in consultation with our industry to create a more receptive environment in which to negotiate AV and AV-related issues. In addition, in the current services negotiations, the United States is helping to build a coalition of developed and developing countries with strong commercial interests in liberalizing AV services. Such a coalition has the potential for becoming a force in preventing a de facto carve out of AV services in the current negotiations.

The United States is pursuing several avenues in seeking to liberalize AV services. First, as stated in the U.S. WTO negotiating objectives paper for AV services, our primary objective is to ensure "an open and predictable environment that recognizes public concern for the preservation and promotion of cultural values and identity." In line with this objective, we have requested that virtually all countries schedule commitments that reflect their current levels of market opening. Only in a few instances do we expect to request countries to remove existing restrictions on AV services.

Having countries schedule existing regulation of the AV sector will serve to enhance transparency and help ensure that existing regulations will not be extended

to include new activities, an important objective given the rapid technological changes taking place in this sector. Such predictability is also important in a sector where timing is essential for commercial success. In addition, scheduling commitments in the AV sector will underscore that GATS disciplines apply to AV services, as they do to virtually all services.

Second, we are seeking to increase demand for, and access to, content by encouraging countries to schedule commitments for transmission services (the pipes). As part of this effort, we are leading the way by offering to make new commitments in the GATS negotiations, including with respect to cable service.

Third, in WTO accession negotiations, including those with the Baltic States and China, we have succeeded in obtaining commitments in area related to, although not technically part of AV services, such as ownership and operation of cinema theaters. While less sensitive than services considered "audiovisual," such commitments are nonetheless important to our industry.

*Question 7:* The United States has been able to secure important provisions in the Chile and Singapore agreements on a number of issues, including "TRIPS plus" IT provisions, copyright term extension, customs valuation, and trade in digital products. These types of provisions set a new standard for the kinds of issues that trade agreements should be addressing. Will the United States advance these provisions in other bilateral and regional free trade negotiations, as well as in the FTAA and WTO?

*Answer:* Yes, in the FTAA negotiations, as well as the in the FTA negotiations with Central America, Morocco, Australia, and SACU, we are proposing IP chapters that are as strong as those we negotiated with Chile and Singapore in these areas. Specifically, we are proposing chapters that complement, clarify and augment the protections provided by the WTO TRIPS Agreement. As you know from the Chile and Singapore Agreements, these provisions reflect a standard of protection similar to that found in U.S. law, and provide strong protection for new and emerging technologies.

In close coordination with U.S. industry, we chose not to pursue new TRIPS negotiations as a priority at the WTO Doha Ministerial. At a time when we are urging WTO Members to complete their efforts to fully implement the TRIPS Agreement, we felt it was premature to launch new negotiations. Nevertheless, like other Members, we foresee the possibility of improvements to the TRIPS Agreement in due course. Among other things, it will be important to ensure that standards and principles concerning the availability, scope, use and enforcement of intellectual property rights are adequate, effective, and keeping pace with rapidly changing technology, including further development of the Internet and digital technologies. But first, we will seek to establish these standards bilaterally and regionally through our FTA negotiations.

#### RESPONSES TO QUESTIONS FROM SENATOR SMITH

*Question 1:* For more than a year the U.S. canned pear industry has petitioned the U.S. government to remove south African canned pears from the list of products eligible for AGOA benefits. I have supported this petition and made my position clear to the Administration. When will the Administration make a decision on the U.S. canned pear industry petition?

*Answer:* Since the last GSP and AGOA product decisions taken in January, there remains no interagency consensus to remove canned pears from the list of goods with preferential duty free access under the GSP program for AGOA countries. Therefore, further consideration has been deferred until such time as new information on changed circumstances may become available for interagency analysis.

*Question 2:* The U.S. Agriculture proposal for the Doha Development Agenda negotiations has met significant resistance from many Members of the WTO. For many producers of specialty agricultural products (such as pears, apples and sweet cherries) anything less than the U.S. proposal will deliver few, if any, trade benefits in this next WTO round. Do you feel that tangible trade benefits to U.S. specialty crop producers will be obtained at the end of these negotiations?

*Answer:* U.S. specialty crop producers currently are disadvantaged by high tariff and trade-distorting subsidy levels in other countries. Substantial improvements in market access (particularly through tariff reductions), elimination of export subsidies, and substantial reductions in tradedistorting domestic support (particularly in the EU) will all improve the market conditions for U.S. specialty crop exporters. Moreover, since most U.S. specialty crops do not benefit from trade-distorting domestic support, export subsidies or high tariff levels, ambitious reform in these areas should be particularly advantageous. Delivering on these substantial reforms



is our negotiating challenge. We will continue to negotiate seriously to bring home a good agreement for American producers.

*Question 3:* What is the future of EC subsidies of commodity production with the “east block” joining and creating an enormous financial burden to the EC? Is there any opportunity to establish a protocol of subsidy for like products?

*Answer:* The expansion of the European Union to include ten Central and Eastern European countries in 2004 places a significant financial burden on the EU’s current Common Agricultural Policy (CAP). This expected financial burden is one of the main reasons why the European Union is working now to reform the CAP by restricting the level and growth rate for CAP spending until 2013, and decoupling the majority of farm subsidies from production. The EU member states are still debating the details of these necessary reforms.

Reducing trade-distorting agricultural subsidies is a priority U.S. objective in the ongoing negotiations under the Doha Development Agenda. Of course any agricultural subsidies provided to new EU members must conform to the rules and disciplines of the WTO.

*Question 4:* What is the status of Chinese acceptance of protection of intellectual property rights, particularly in agricultural commodities such as Plant Variety Protected (PVP) grass seed?

*Answer:* As you know, China’s enforcement of intellectual property rights (IPR) is highly-ineffective. My office, working with the United States Embassy in Beijing, has raised protection of PVP grass seed IPR with Chinese officials. I have asked my staff to inquire on the current status of this matter with the appropriate officials in China, and to contact your office with an update.

*Question 5:* I appreciate the attention that you and the Administration are devoting to the concerns of religious freedom in the Russian Federation, as you mentioned in your statement. Although I would like to see the United States terminate the application of Title IV to Russia, I would also like to see the Russian government provide and fulfill more guarantees against the arbitrary denial of visas to religious workers from overseas, arbitrary “liquidation” of religious organizations, and excessive tax on foreign assistance to humanitarian organizations trying to help the Russian people. Can you elaborate on what mechanisms and leverage the United States Government will have at its disposal after Russia is removed from Title IV, and also address how removing Russia will advance the cause of religious freedom?

*Answer:* Title IV of the Trade Act of 1974 was put in place to ensure freedom of emigration for the Jewish community, and it has served as an effective tool to bring about progress in Russia on our concerns with Jewish emigration and the treatment of the Jewish community in Russia. The Russians are now living up to the goals that we set, and the need for Title IV has ended. It is important that we recognize the progress Russia has made by terminating application of Title IV to Russia.

We have an ongoing active dialogue on religious freedom and other human rights with all levels of the Russian Government, including President Putin. Termination of Title IV will not affect our policy of raising religious and human rights issues with the Russian Government. We will also continue to utilize other tools available to address religious freedom in Russia, such as the International Religious Freedom Act.

*Question 6:* Mr. Ambassador, as you very well know, the copyright industries are among America’s most successful export industries. In countries as diverse as Malaysia, Taiwan, Russia, Brazil and Mexico, we are facing enormous levels of physical, hard goods piracy. Indeed, well-organized pirate operations in those countries now unlawfully export copies of American movies, music and computer software to other regions of the globe.

*Question 7:* My question is whether you have the resources that you need to address this escalating problem? Is there anything that this Committee can do to help you wage this fight—through legislation, allocation of resources, or other support for your efforts to protect property rights?

*Answers:* Congress has provided USTR with effective tools to address the escalating problem of copyright piracy including Special 301 and GSP, among others. We are aggressively pursuing improvements in Malaysia, Taiwan, Russia, Brazil, and Mexico using these tools as well as through bilateral negotiations, including those regarding Russia’s accession to the WTO. Congress has always been very supportive of our efforts, including through direct communication with our trading partners, such as Taiwan, about the importance Congress attaches to ensuring adequate and effective protection of intellectual property rights and the need for these economies to take action to reduce copyright piracy. Such actions, as well as continued support for the Administration’s efforts to improve developing and least developed countries’ capacity to implement effective enforcement regimes will help us wage this fight.

*Question 8:* In the not too distant future you will be engaged in discussions on Russian WTO accession, and with Taiwan on a possible FTA. Do those governments, and others around the globe, appreciate that a commitment to intellectual property protection impacts the successful completion of any trade agreements?

*Answer:* I have repeatedly made it clear to our trading partners that protection of intellectual property rights is a very high priority for the US. I have been using the WTO accession discussions to press Russia to strengthen its IPR regime. In addition, USTR has been monitoring China and Taiwan's compliance with their new WTO obligations and has urged them both to provide stronger enforcement.

*Question 9:* Mr. Ambassador, a key focus of our work is to deal with the exploding level of physical piracy in key markets around the globe. Our trading partners must understand that the intellectual property laws must be vigorously enforced. I look forward to working with you to fight this fight aggressively, and effectively.

*Answer:* As new technology and software products and services develop, pirates have been quick to take advantage of these new technological advances. In particular, we are very concerned about the increased rate of piracy of optical media, (that is music, video and software CDs, CDROMs, and now DVDs) as well the use of the Internet as a global distribution network for pirate products.

With respect to Optical Media, we have had some significant successes on this issue in recent years. Hong Kong is one case in point. Our expressions of concern were joined by a number of Hong Kong artists and copyright industry figures. In part because of this, Hong Kong has taken additional legislative and enforcement actions to combat optical media piracy, having already implemented model controls on optical media production.

With regard to Internet Piracy, we are taking several approaches to combating this issue. We are pressing for full implementation of the TRIPS Agreement's enforcement obligations to provide effective action and adequate deterrence against commercial piracy whether it occurs in the online environment or in the physical world. In addition, we are urging countries to ratify and implement the WIPO Internet Treaties, which raised the international minimum standards of intellectual property protection around the world, particularly with respect to Internet-based delivery of copyrighted works.

*Question 10:* Ambassador Zoellick, repealing ETI outright would adversely impact over 3.5 million U.S. jobs and would result in a rather substantial tax increase on U.S. farmers and businesses. Given that the United States has lost more than 2 million jobs since July 2000—and the manufacturing sector has been particularly hard it—wouldn't you agree that this is the wrong time to raise taxes on U.S. farmers and businesses? Shouldn't we be turning over every stone in an effort to find a way to minimize the impact of possible ETI repeal and keep our farmers, manufacturers, and high-tech producers competitive in relation to their European counterparts who, as I'm sure you know, receive substantial tax advantages through VAT rebates on exports and other forms of tax relief?

*Answer:* I think it is important to comply with the FSC/ETI ruling. In doing so, I agree that non-trade considerations are paramount in determining the optimal way to secure this compliance.

*Question 11:* Section 2102(a)(8) of the Trade Promotion Authority (TPA) provisions of the Trade Act of 2002 sets out a principal negotiating objective of the United States that calls for the modification of WTO rules which favor nations that rely primarily on value-added, sales, excise, and other indirect taxes—e.g., EU member states—and disadvantage countries like United States that rely primarily on income or direct taxes. The legislative history behind this negotiating objective makes clear not only that the United States needs to address this long-standing imbalance in WTO rules, but it also must ensure that U.S. exporters that now benefit from the ETI are not placed at a permanent competitive disadvantage as a result of the WTO dispute-settlement proceedings initiated by the EU against ETI and its predecessor, the former U.S. Foreign Sales Corporation (FSC) tax provisions (i.e., H.R. Rep. No. 107-624 at 157 (2002) and S. Rep. No. 107-139 at 35-36 (2002)). This negotiating objective was included in TPA as a result of strong support from the U.S. business community, and it enjoyed broad bipartisan support within the Congress. It must be given the same weight and attention as other TPA negotiating objectives. Accordingly, Mr. Ambassador, I am eager to hear from you how the Administration intends to give effect to the Border Tax Adjustment negotiating objective and its legislative history. It was our understanding, based on statements your office has made in the past, that one way the United States might do so would be to table these issues for discussion as part of the "Rules" negotiations in the WTO Doha Round. However, recent U.S. draft position papers on the "Rules" negotiations makes no reference to these issues. I would, therefore, also appreciate clarification on whether the U.S. position on "Rules" will soon be augmented to address the Border Tax Adjustment ne-

gotiating objective and its legislative history or whether you have an alternative means of achieving what I hope are our shared ends.

*Answer:* In accordance with the negotiating objectives set out in the Trade Promotion Authority (TPA) provisions of the Trade Act of 2002, the Administration has raised the issue of the different WTO rules for direct and indirect taxes in a recent submission to the “Rules Negotiating Group.” While our March 19, 2003 submission acknowledges the intent to comply with our WTO obligations, it noted the differential treatment of direct and indirect taxation, and stated that we believe that “an essential part of the work of the Rules Group should be to work toward greater equalization in the treatment of various tax systems that, at least with regard to their subsidy-like effects, have only superficial differences.”

*Question 12:* Ambassador Zoellick, as you well know, the United States and the WTO granted the EU two waivers and almost a five-year transition period in which to bring its WTO-inconsistent regime governing the importation of bananas into compliance. Given that the income tax provisions embodied in the Extraterritorial Income Exclusion Act of 2000 (ETI) are extremely complex, integral to our system of taxation, and the product of a nearly 30-year GATT and WTO dispute over the application of trade rules to income taxes, wouldn’t you agree that the United States should be accorded at least this much time to allow farmers and businesses the chance to adjust to whatever tax changes the Congress might pass, in order to comply with the WTO’s ETI decision? In other words, Mister Ambassador, shouldn’t any possible replacement of ETI include such transition relief?

*Answer:* In light of the WTO litigation concerning the Foreign Sales Corporation tax provisions and the Extra-Territorial Income Exclusion Act (ETI), the United States is under an obligation to bring its tax legislation into WTO compliance. To the extent that any transition measures included in legislation replacing ETI are WTO inconsistent, some in the EU will argue for proceeding with retaliation. On the other hand, others in the EU are sensitive to the complexity and difficulties necessarily involved in modifying tax provisions of this nature.

#### RESPONSES TO QUESTIONS FROM SENATOR BUNNING

*Question 1:* Mr. Ambassador, over the past two years I have worked with steel producers in my state to ensure that a strong 201 remedy was put into place to provide relief to the industry. Kentucky has a variety of steel producers in the state including one of the newer mini-mills, Gallatin Steel of Ghent, KY.

In the 201 proclamation, the President provided room for our government to re-address instances where import surges may occur from countries not covered by the 201 remedy. This was put into place to ensure that the 201 program would not be undermined by a surge in imports from uncovered countries.

I understand that Gallatin Steel and others in the industry have expressed their concern over import surges from excluded countries—including India and Turkey as well as other developing countries. There is concern that imports from these countries are cutting into the real “teeth of the 201 remedy.”

What are your plans to address this import surge problem? What are you and your counterparts at the Dept. of Commerce prepared to do to ensure that this trend does not continue and what is your time frame?

*Answer:* The issue of a potential surge of imports of Section 201 steel products from excluded developing countries is serious, and is receiving a lot of our attention. USTR and the Department of Commerce have been working to address the issue since the domestic industry first expressed its concerns last fall.

This Administration is fully committed to the decision to enact the safeguard remedy on steel imports as part of a long-term strategy to strengthen market forces in the steel sector. In accordance with our international obligations, the Administration excluded from the remedy those World Trade Organization member countries considered to have “developing country” status, whose imports have historically represented less than 3 percent of the U.S. steel market, along with our Free Trade Agreement partners.

At that time, the Administration also announced a monitoring and consultative process by which developing countries would be subject to the safeguard remedy if there is a surge in imports from those countries. This process is required because under certain circumstances, a surge in imports from excluded countries could undermine the effectiveness of the steel safeguard remedy. Under this process, the Department of Commerce and the Office of the U.S. Trade Representative monitor steel imports and, if an apparent surge in imports from an excluded country occurs, initiate consultations with that country regarding the circumstances of the surge and whether the country plans to take action to reduce imports to historical levels. If consultations do not resolve the U.S. government’s concerns over the import

surge, and the Administration determines that the increased imports threaten to undermine the goals of the remedy, the safeguard remedy may be applied to the products from that developing country.

We are actively implementing this monitoring and consultative process by taking action across a variety of fronts. In response to concerns regarding possible surges in steel imports and petitions received by the domestic steel industry, we are carefully monitoring monthly import statistics from all developing countries. In addition, we are asking the U.S. Customs Service to examine certain import transactions related to increased imports from excluded developing countries to determine whether these transactions may involve potential transshipments from other countries that are currently subject to the safeguard remedy. We have held consultations with Argentina, Dominican Republic, Egypt, India, Romania, South Africa, and we will hold additional consultations as needed. In these consultations, we are sending a very clear message—developing country exporters need to take immediate action in order to avoid causing any surges that undermine the effectiveness of the Section 201 measures.

As to actual trends for products covered by the steel safeguard remedy, we note that imports of all finished flat-rolled products have been declining in recent months, dropping to 609,000 metric tons in February, the lowest level since May. For the key product manufactured by Gallatin Steel, hot-rolled sheet, imports fell 45 percent in February to 230,000 tons, also the lowest level since May.

*Question 2:* I was very pleased to see that the recently completed negotiations with Chile and Singapore treat the export of tobacco products like other commodities. Can you commit to me that this will continue to be the position of the Administration with regard to the numerous other agreements that are currently under negotiations?

*Answer:* Our general approach is to pursue agreements that are comprehensive. Our WTO proposal to phase out tariffs on agricultural products, for example, includes all products. Our initial FTAA offer also is comprehensive. While I expect our general approach will continue to press for comprehensive agreements, final inter-agency decisions have not been made on other pending FTAs.

*Question 3:* In light of the U.S. trade deficit of \$435 billion and the concerns regarding possible currency intervention and manipulation of many of our major trading partners, would you lay out the Administration's plans for implementation of the portion of Section 2102 of the TPA bill, which states that we will seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to provide a competitive advantage in international trade?

*Answer:* The Secretary of the Treasury is the Administration's spokesperson on the dollar and has the responsibility for discussing and implementing issues concerning this particular section of the TPA. This responsibility complements the Trade Representative's broad responsibilities related to negotiating trade agreements under the TPA. I will provide the Secretary of the Treasury with appropriate advice and assistance, as the Secretary consults with Congress under Section 2104(d) about implementing the currency provisions of TPA.

*Question 4:* With a number of manufacturing facilities in Kentucky, I am very concerned about the international competitiveness of our US factories. As you know, the duty drawback program, administered by the Customs Service, is the last remaining export promotion program to help US companies compete in the global marketplace against trading partners that have significantly lower costs of production. I understand the US-Chile FTA provides for an accelerated phase-out of the program, faster than the tariff reduction schedule. What is the justification for phasing out this clearly beneficial program at a pace faster than necessary?

*Answer:* Because duty drawback programs create or continue incentives that encourage the use of nonlocal inputs, it has been the longstanding position of the United States that such programs are inappropriate in a free trade agreement and should be eliminated.

The US-Chile FTA, in keeping with this policy, does eliminate duty-drawback programs after a transition period. However, this phase-out is not accelerated. Full duty drawback is permitted until year eight of implementation, one year more than provided to Mexico, Canada and the United States under the NAFTA. In addition, partial duty-drawback benefits can continue to be provided on all goods until year 12. Since all tariffs on manufactured goods are eliminated by year 10, duty drawback is not being phased out more quickly than tariffs, and is also available longer and at greater levels than is generally the case under NAFTA.

*Question 5:* I would like to address the issue of hormone-treated beef and the refusal of the EU to comply with the WTO ruling regarding the importation of these

products. In particular, I would like to focus on the pending addition of ten Eastern and Central European countries to the EU. I understand that it has been made clear that these ten countries will be required to accept the EU ban on hormone-treated beef. Obviously, this will further restrict the markets to which our exports of meats from animals treated with hormones can be sold. Could you address this issue generally and, in particular, is it possible that the U.S. will seek an upward adjustment in current U.S. retaliation to compensate for the loss of market access in the new entering countries if those countries are required to accept the EU ban?

*Answer:* As part of its WTO obligations, the EU is required to negotiate the impact of enlargement with its trading partners. A date for these negotiations has yet to be set. All issues that will be impacted by the enlargement of the EU next year will be on the table for discussion, including the issue of additional compensation for loss of U.S. beef sales to the EU, as a result of its ban on beef from cattle treated with growth hormones. Any additional compensation we may get as a result of enlargement will depend, in large measure, on current U.S. beef trade with the ten acceding countries.

*Question 6:* Four years ago Congress approved the Digital Millennium Copyright Act to implement U.S. commitments under the WIPO Treaty. As you know, Congress worked very hard in crafting the “no mandate” provision of the Digital Millennium Copyright Act to ensure that consumer electronics, telecommunications, and computing product manufacturers would not have to design their products to respond to any and all technological measures that might be used by content owners to protect copyrighted works.

A. With respect to the proposed Chile and Singapore Trade Agreements, can you assure the Committee that the text of the proposed agreements maintains the delicate balance set forth in Section 1201(c)(3) the DMCA, without prejudicing the interests of any of the industries affected by the provision?

B. Will you maintain that balance in future bilateral and multilateral agreement by using the same text to the maximum extent possible?

C. In enacting implementing legislation, will Chile remain free to enact exception to the rights of copyright holders, such as the fair use exception under U.S. law, as long as they are consistent with the terms of the Agreement?

*Answer:* We worked very closely with all interested parties in constructing provisions in our FTAs that maintain the delicate balance set forth in the DMCA, without prejudicing the interests of any of the industries affected by these obligations. The Chile and Singapore FTAs include these provisions and fully reflect the balance of the DMCA. We will maintain the balance struck in the Chile and Singapore Agreements in all future bilateral and multilateral agreements by using the same text to the maximum extent possible. For example, we will seek to include these provisions in the FTAs we are pursuing with Australia and Morocco. With respect to the Chile FTA and exceptions to the rights of copyright holders, we included standard “exceptions” language based on TRIPS and the Berne Convention, which allows countries to make exceptions to any of these rights, as long as they are confined to “certain special cases which do not conflict with a normal exploitation of the work, performance or phonogram, and do not unreasonably prejudice the legitimate interests of the right holder.”

#### RESPONSES TO QUESTIONS FROM SENATOR SNOWE

You are to be complimented in successfully urging the President to exempt the core products of the rubber footwear industry from the duty-free treatment accorded other industries under the Andean Trade Preference Act on the ground of the unique import sensitivity of rubber footwear. Moreover, I was pleased to note that, in the Chilean trade negotiation, you at least softened the blow of duty-free treatment by phasing out rubber footwear duties in a less painful manner than a straight linear phaseout.

*Question 1:* Can you assure me that, in the more significant negotiation under the Free Trade Area of the Americas, you will be guided by the precedents of the ATPA and the agreement with Chile?

*Question 2:* Is it not true that, since Chile and the Andean countries are part of the FTAA negotiation, anything short of what was achieved with respect to the ATPA and Chile would make those achievements meaningless?

*Answers:* Each negotiation has its own dynamic and it would be premature for the Administration to prejudge a specific outcome with respect to individual products. However, we can confirm that we are very aware of the current sensitivity of the U.S. rubber footwear industry and will take that sensitivity into account in the FTAA negotiations.

When Great Northern Paper in Maine announced its bankruptcy in January, I had lots of questions about what had caused a company, that had invested heavily in the technology to compete in the global market place, to find itself in such dire straits. One of the answers that I received, which I hope we can address in the WTO is the continued subsidization of manufacturing capacity in the paper industry by many of our trading partners. Similar to the concerns of the steel industry and other manufacturers, this has resulted in global overcapacity and the distortion of the paper market.

*Question 3:* What steps will USTR take to address foreign government subsidies of manufacturing capacity, especially paper, in the current WTO round?

*Answer:* Under the WTO Subsidies Agreement, there are certain rules that all WTO Members must follow with respect to the provision of government subsidies. Currently, only export subsidies and import substitution subsidies cannot be provided, while other types of subsidies are permissible. If, however, these permissible subsidies lead to adverse trade effects, a countervailing duty investigation may be undertaken—usually following a formal industry complaint. Another potential avenue may be the commencement of WTO dispute settlement proceedings. If a U.S. industry or company has information indicating that its foreign competitors are being subsidized or, even just suspects this to be the case, USTR and the Department of Commerce stand ready to provide counseling and technical assistance as to the possible remedies which may be available.

In the context of the ongoing negotiations pursuant to the WTO Doha Development Agenda, the United States has taken an aggressive stance toward identifying issues in need of further discussion and negotiation, such as with regard to the possible expansion of the category of subsidies that are prohibited. An expanded prohibited category might include, for example, government debt-forgiveness or loss coverage that artificially maintains capacity that should either be downsized or liquidated. In general, we have put forward ways in which the WTO Subsidies Agreement could be strengthened to discourage or prevent such practices, and ask that the existing rules be clarified to identify more clearly those instances in which the government provides financing for the creation or maintenance of capacity that would not otherwise be available from private commercial sources.

*Question 4:* Ambassador Zoellick, as you are aware, the issue of subsidized and dumped lumber from Canada is important to me and to my home state of Maine. While the U.S. industry has repeatedly demonstrated the existence of the subsidies and dumping and the resulting injury, Canada has filed a flurry of cases in international fora in an effort to undermine our right to offset their unfair trade and in order to protect their subsidies and dumping. In fact, Canada has filed no less than seven cases in the WTO related to this case and three NAFTA appeals. An initial WTO panel—which the Administration decided not to appeal—found an important point in Canada’s favor: The panel ruled that if a government is accused of subsidizing a particular product, the value of that product must be measured against existing “market” prices in the subsidizing country, even if it is proven beyond a doubt that the subsidies themselves have totally distorted the local market. (For example, in the case of lumber, the Canadian provinces provide 85–99% of the timber at subsidized prices and even private Canadian timberland owners have testified that they cannot get a fair price for their timber as a result.) This means that the more a country subsidizes its market, the more easily it can protect its subsidies. This ludicrous interpretation greatly oversteps the terms of the WTO, which says that fair market value need be measured only “in relation to” conditions in the country. In addition, it is inconsistent with several other WTO cases that recognized the probative value of using the price of a product in an open market to determine the value of the product in another.

My question, though, goes particularly to the European Union’s role in this dispute. The EU initially supported the U.S. position, recognizing the ridiculousness of the Canadian position as a matter of law and economics. Reports at the time indicated that the EU was particularly concerned about Russian subsidies to aluminum, fertilizer and other industries. The EU went so far as to notify the WTO immediately after the initial panel decision that the EU was modifying its regulations to make it express that external prices could be used as a benchmark whenever domestic prices were unavailable or “unreliable” as indicators of fair market value. Yet, later, in its brief before a subsequent WTO panel, the EU seemed to reverse course and support Canada. No reason was given for the change, but Canada has clearly lobbied the issue effectively.

1. What action has your office taken to secure the EU’s support in this dispute as it proceeds at the WTO?

2. In your numerous meetings with the EU, have you taken the opportunity to discuss our mutual interest in ending these trade-distorting subsidies, particularly those that injure industries and result in overproduction?

3. Have you discussed this issue with our other trading partners or WTO members?

4. What action will you take to apply appropriate pressure on the EU to ensure that its position before the WTO is consistent with sound law, economics and the EU's own regulations?

*Answers:* As noted in response to Senator Baucus's similar question, officials at the Commerce Department contacted their EU counterparts early in this dispute in an attempt to garner the EU's support. We have asked the Commerce Department to recontact EU officials to determine why the EU did not support our position more forcefully in light of its recent regulation. We have directed USTR's Brussels mission to do the same. Although the opportunity for third parties to participate in this dispute is over, we want to better understand the EU's concerns so that we can try and garner its support in any potential appeal of this dispute. My office will continue to pursue a dialogue with the EU on this and other similar issues, and we will encourage the Commerce Department to do the same.

#### RESPONSES TO ADDITIONAL QUESTIONS FROM SENATOR BAUCUS

I am troubled by reports that the European Union has reversed course on a matter of serious consequence to our challenge against the Canadian lumber regimes. A preliminary WTO panel found that, in cases of alleged subsidies, the value of a product should be compared to internal prices only in the subsidizing country, even if the alleged subsidies have so totally distorted the market in question that no market-based prices exist internally. Originally, the EU supported the U.S. position that this determination is wrong—that it makes more sense, and would be consistent with WTO rules, to allow comparison to external prices where necessary to gain a better idea of a truly market-based price. The EU went so far, after this preliminary determination, as to modify their own regulations to expressly allow the use of external price comparisons. Now, I understand, the EU has reversed their position, and favor the Canadian position that only comparisons to internal prices should be allowed.

*Question 1:* Why has the EU switched their position? What actions have you taken, or plan to take, to address both the EU reversal and gather additional support from other concerned nations?

*Answer:* The EU in fact has not switched its position. In the dispute that Canada filed against the Commerce Department's preliminary countervailing duty ("CVD") determination on softwood lumber, and in the current dispute that Canada filed against the Commerce Department's final CVD determination on softwood lumber, the EU has consistently supported the United States in arguing that the WTO Subsidies Agreement allows WTO Members to go "cross-border" and to compare the government's price to an external market price if there are no true market prices in the country at issue. In both disputes, however, the EU argued that the record evidence did not support the United States' factual determination that there are no true market stumpage prices in Canada.

The EU thus did not switch its position. After the EU modified its regulation last fall, we were hopeful that the EU *would* switch its position and support the United States more forcefully. Unfortunately, it did not.

It is important to understand, however, the limited role of third parties in WTO disputes. Third parties must reserve their right to participate at the beginning of the dispute and may only file one written submission, which is typically limited to a few narrow issues. In this case, the opportunity for the EU and other third parties to participate is over.

Officials at the Commerce Department contacted their EU counterparts on this issue before the EU filed its submission in an attempt to garner the EU's support. We have asked the Commerce Department to recontact these officials in an effort to understand why the EU did not support our position more forcefully in light of its recent regulation. We have directed USTR's Brussels mission to do the same. Although third parties have no further opportunity to participate in this dispute, we want to better understand the EU's concerns so that we can try and garner its support for any potential appeal of the panel's report.

#### RESPONSES TO QUESTIONS FROM SENATOR LINCOLN

*Questions:* Thank you Mr. Chairman. I would like to thank you for chairing this hearing today to discuss the Administration's trade agenda. And I thank Ambassador Zoellick for his testimony and hard work over the past year.

Passing Trade Promotion Authority was a necessary development that I was pleased to see reach a successful conclusion. I, for one, believed early on that it was imperative for Congress to reauthorize the trade negotiating authority you need to get back to the bargaining table. This authority has already assisted you in negotiating free trade agreements with Singapore and Chile.

Now we are setting an ambitious course to sign bi-lateral Free Trade Agreements around the world including: Central America, Australia, Morocco, and the Southern Africa Customs Union.

This along with a new round of WTO negotiations (which frankly are not off to good start as Senator Conrad has pointed out), on-going discussions on the Free Trade Area of the Americas, and other problems in trade that are felt throughout the country including Arkansas.

I echo the concerns of my colleagues on defining a clear approach to choosing truly beneficial free trade agreements, on lifting the Cuba trade embargo, on dealing with WTO panel decisions, and on our constant stream of specific international trade problems.

For Arkansas, some of these specific problems are causing serious harm.

For instance, take Russia for example, who has gone to great length to restrict imports of U.S. poultry and meat products. President Bush has had personal conversation with President Putin regarding this issue. Yet, these barriers still exist.

I, along with several of my colleagues in the Senate, will soon send a letter to President Bush encouraging him to take aggressive action in this matter.

Another example is China, where after their first year as members of the WTO, are still IN non-compliance on full market access to U.S. raw cotton and GMO soybeans. Clearly, this bilateral approach is going nowhere. . . . "slow."

So, I have two questions:

1. First, we've already discussed how our negotiating resources are strained between the array of bilateral and multilateral talks.

What assurances can you give the members of the Committee that these domestic concerns will have the resources that they need and deserve?

2. Second, can these specific problems—with Russia and China—even be resolved through bilateral diplomacy, or have we passed that point; is litigation our best and only chance for a favorable resolution?

*Answer 1:* I believe that USTR has the resources it needs to produce favorable results for American farmers. Since its creation 40 years ago, this agency has always been "lean" in staffing numbers, but makes up for what it lacks in numbers with a talented and dedicated team of results-oriented workers. At USTR, we use our small size as an asset, achieving results quickly, without the layers of review, "red tape", or delays sometimes found in larger organizations. I can assure you that the American farmer gets no bigger "bang for the buck" from any Government agency than it does from USTR.

In addition to Ambassador Allen Johnson and other dedicated USTR employees, we employ ten agricultural trade officers on detail from the Agriculture Department, who provide greatly appreciated expertise and industry to our agriculture trade activities.

We continuously review our workloads and priorities, and target staff resources, employees and personnel details, on trade issues that most deserve our attention and can yield positive results. Over the coming months, we will continue that balancing of resources and priorities as we engage in bilateral, regional, and multilateral negotiations, and I am confident that the domestic concerns of farmers will get the resources they need and deserve.

*Answer 2: (Russia)* Making sure that the United States has access to vital markets overseas is a top priority of this Administration. We have raised our concerns regarding market access for U.S. poultry at the highest levels of the Russian Government. As you noted, President Bush has discussed this issue on several occasions with President Putin, and I, along with my colleagues from other agencies, have spent a great deal of time working to ensure market access for U.S. poultry exports to Russia.

While we have made some progress, new problems have recently arisen that again disrupt our market access for poultry and now threaten our access to the Russian market for pork and beef. We are currently actively engaged with the Russians bilaterally to bring resolution to these issues, and we have delivered a very clear message to Russia that if we fail to achieve rapid resolution through bilateral channels, we will be forced to consider using other policy tools, including Section 301.

*Answer 2: (China)* We are pressing hard in both bilateral and multilateral fora on our concerns regarding the artificial limitations China has imposed on U.S. exports, including U.S. agriculture goods. While U.S. exports of the two commodities you reference—raw cotton and GMO soybeans—have seen record and near-record



sales into China this year, we remain concerned with the ability of Chinese import administrators to manage trade in these commodities through the use of WTO-inconsistent measures. In the case of cotton, China is able to restrict imports by manipulation of the tariff-rate quota system for bulk agricultural products. For soybeans, China has attempted to regulate imports of biotechnology agricultural products. The Administration, however, has secured the commitment of China that trade in these products will not be disrupted.

When I was in China last month, I raised the seriousness of U.S. concerns with these matters directly with the new Premier of China Wen Jiabao, and the Minister of Foreign Trade and Economic Cooperation Shi Guangsheng. Premier Wen indicated that China would work with the United States to resolve both these issues cooperatively, and that China understood the depths of U.S. resolve on this issue. We will continue to work to ensure that these and other products exported by American farmers, workers and businessmen achieve unfettered access to the Chinese market.

#### RESPONSES TO QUESTIONS FROM SENATOR JEFFORDS

*Question 1:* It is my understanding that there may be some WTO implications related to the United States' failure to participate in the international Kyoto Protocol, when and if that treaty enters into force (which will happen when Russia ratifies the treaty). I have heard that carbon tariffs are being discussed by some European countries. What is your understanding of this possibility, and what are the implications for the United States?

*Answer:* We are aware that there has been discussion of the possibility of Annex I Parties to the Kyoto Protocol imposing carbon tariffs, quotas, or labeling requirements on energy-intensive imports from Annex I non-Parties. However, we are not aware of any impending actions along those lines that the European Union or any other Annex I Party is actively considering. In fact, the European Union still has not established its own internal carbon-trading regime, making serious consideration of any external regime unlikely, at least in the short-term.

Were a WTO Member to employ such measures, regardless of whether the Kyoto Protocol had entered into force, we would examine them in the light of WTO rules and obligations, as we would any other measure affecting imports from the United States. We would have to know the details of any such measures, however, before we would be able to determine an appropriate response.

*Question 2:* On December 31, 2002, the Bush Administration proposed regulations that would allow tuna caught by encircling dolphins to be labeled "dolphin safe." For the last five years, tuna caught using dolphins as target were barred from bearing the "dolphin safe" label and dolphin kill had been reduced from 100,000 a year to 2,000 a year. What was the reason for this policy shift? What monitoring efforts are anticipated to ensure that dolphin kill remains at current reduced levels?

*Answer:* USTR does not administer the dolphin protection program, and my office was not involved in the Secretary of Commerce's December 31, 2002 decision. My colleagues at the Departments of Commerce and State are in a better position to answer your question.

However, I understand from my colleagues that a major factor behind the dramatic declines in dolphin mortalities is a binding international agreement, which has been highly effective in getting tuna fishing nations that encircle dolphins to implement dolphin conservation measures—in part because these nations understood that the criteria for labeling tuna "dolphin safe" could be changed if the conservation methods were adopted. I also understand that the agreement helps to avoid some of the harmful ecosystem effects of the alternative tuna-fishing methods that do not encircle dolphins (such as increasing by-catch of juvenile tuna, sea turtles, sharks and other species).

*Question 3:* Trade Promotion Authority (TPA) has created a Congressional Oversight Group (COG) that will have access to all U.S. trade negotiations. Who are the current COG members? Is there a cap on COG membership? Are any members of environmental committees and their congressional staff included in the group? How often does the COG plan to meet? To date have members of environmental committees and/or their congressional staff attended any trade negotiations? Are there any practical or procedural impediments to participation at COG meetings or at trade negotiations as observers? Is it also anticipated that members and staff will interact with the Trade Policy Review Group, Trade Policy Staff Committee, and Trade policy advisory committees?

*Answer:* Section 2107 of the Trade Act of 2002 created the Congressional Oversight Group (COG) which is chaired by the chairmen of the Ways and Means and Finance committees. Membership on the COG is determined by these chairmen. Sec-

tion 2107 calls for COG meetings at certain critical times in the negotiating process and at the call of either COG chairman. Per section 2107, USTR developed guidelines “to facilitate the useful and timely exchange of information between the Trade Representative and the [COG].” Section 2107 does not contemplate interaction between the COG and the Trade Policy Review Group, the Trade Policy Staff Committee, or the trade policy advisory committees.

*Question 4:* TPA states that the U.S. cannot use punitive trade measures if a trading partner’s failure to enforce an environmental or labor law results from a reasonable decision to prioritize other policies ahead of enforcement of these laws. None of the other specific negotiation objectives contains this kind of exemption. Why were the environment and labor provisions singled out?

*Answer:* I would defer to the authors of TPA on this question. You may be interested to know, however, that the provision of interest to you was part of the US-Jordan FTA.

*Question 5:* What is the current state of play with respect to ongoing interagency negotiations on investment liberalization (since TPA became law)?

*Answer:* In close consultation with Congress, the business community, and NGOs, the Administration developed a new investment chapter that clarified traditional investment protections in line with the TPA negotiating objectives.

For example, we clarified the provisions on the minimum standard of treatment and expropriation, drawing heavily on U.S. legal principles and practice. In fact, the clarification of the expropriation provision incorporates principles developed under U.S. takings law under the Fifth Amendment of the U.S. Constitution. We have clarified that takings are limited to property rights and property interests, and not other types of interests, and we have incorporated tests used by the U.S. Supreme Court to determine whether a regulatory taking has occurred. The expropriation provisions also recognize that, as under U.S. law, nondiscriminatory regulatory actions designed and applied to protect legitimate public welfare objectives only rarely result in an expropriation.

Our investment proposals also include significant procedural innovations. We proposed, for example, that all documents and hearings in investor-state arbitration proceedings be made public promptly, with safeguards for the protection of confidential information. In addition, our proposals allow amicus submissions in investor-state arbitration proceedings. New provisions also include procedures similar to those used in U.S. courts to quickly dispose of frivolous claims.

The procedural rules also incorporate specific mechanisms permitting governments to play a more active role in the proceedings, thereby increasing the likelihood that the provisions will be applied consistent with U.S. intentions, and, *inter alia*, minimizing any risk that the obligations could be interpreted to afford greater protection to foreign investors than domestic investors in the United States. For example, governments are specifically authorized to make submissions to a dispute settlement panel on the proper interpretation of the agreement, and when challenged by an investor, the defending government will also be able to review and comment on a decision before the decision becomes final. Finally, the chapter anticipates the possibility of the future establishment of an appellate body or similar mechanism to review panel decisions.

Finally, the new investment chapter includes traditional provisions dealing with, for example, nondiscrimination, transfers, performance requirements, and senior management.

The agencies involved in the negotiations are committed to these core provisions, and we intend to seek similar provisions in future FTA negotiations, including those that are now underway.

*Question 6:* TPA instructs negotiators to “reduce or eliminate trade barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operation of service suppliers.” Might this negatively impact a country’s ability to regulate natural resource use, in particular water quality and use? Should trade liberalization in services be considered on a case-by-case basis or across the board?

*Answer:* The reduction or elimination of barriers to services trade should not impair the ability of any country to regulate natural resource use, including water quality and use, and we do not believe that TPA requires otherwise.

We seek fair opportunities for our companies to compete in foreign services sectors that are open to private sector participation, including by seeking removal of barriers that deny national treatment and market access or that unreasonably restrict the establishment or operation of services suppliers.

We do not seek removal of regulatory or other measures that address issues such as health, safety, environmental or consumer protection. In the WTO services negotiations, for example, we informed each of our trading partners, as part of our for-

mal requests to them, that “the United States expects that under the proposed new GATS obligations, as under current obligations, each WTO Member can establish, maintain, and enforce its own levels of protection, *inter alia*, for consumers, health, safety, and the environment, as well as take actions it considers necessary for the protection of its essential security interests.”

Moreover, in a large number of countries, including our own, many natural resources are held in trust for the public. The United States recognizes this and is not proposing to address issues of ownership of natural resources in services negotiations. For example, in the GATS negotiations, the United States is not requesting commitments on ownership of energy resources or on water for human use.

*Question 7:* TPA instructs negotiators to ensure that foreign regulatory practices are based on “sound science,” risk assessment and cost benefit analysis. The practices must also be developed in an open and transparent manner and not used as unfair trade barriers to U.S. products. What is the current status of the precautionary principle/approach in WTO negotiations.

*Answer:* The “precautionary principle” is not a generally accepted principle of public customary international law. It does not exist in the WTO. The notion of a “precautionary principle” and problems associated with it are uniquely European. It is vaguely defined, could undermine the whole concept of science and rule-based measures, and open the door to arbitrary trade protectionism.

The WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) measures incorporates the concept of the precautionary approach. The concept of precaution has also been an integral part of U.S. science-based regulatory practice for nearly a century. It is an essential element of risk analysis and environmental policy decision making, particularly where scientific evidence is insufficient and negative effects on health are difficult to evaluate.

Article 5.7 of the WTO SPS Agreement states: “where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from relevant international organizations as well as from sanitary and phytosanitary measures applied by other members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.”

The Bush Administration is satisfied with the current status of precaution in the SPS Agreement and does not believe there is an reason to reopen the WTO negotiations. To date, efforts by the EU to include this topic in the WTO Agriculture negotiations have failed to generate much support. The draft modalities presented by the chair of the agriculture negotiations do not reference either the SPS agreement or “precaution.”

*Question 8:* Please roughly estimate the cost, man hours, and number of employees required for each of the environmental reviews under Executive Order 13141 that have been completed to date.

*Answer:* Since the promulgation of EO 13141 (November 1999) we have completed a set of guidelines (published in December, 2000), an environmental review of the US-Jordan Free Trade Agreement (completed in January 2002), and publicly-released draft reviews of the US-Chile FTA (November 2001) and the US-Singapore FTA (July 2002). Final reviews of the Chile and Singapore agreements are being completed. I note that the reviews are now required as part of TPA.

We have initiated reviews and requested public comments of the scope of reviews for the Free Trade Area of the Americas, the multilateral negotiations launched at the WTO’s ministerial meeting in Doha, and proposed FTAs with Morocco, Central America, Southern Africa Customs Union, and Australia. Environmental reviews are conducted as an interagency process, co-led by USTR and the Council on Environmental Quality.

The attached table provides estimates of the time spent on reviews since the promulgation of the Executive Order. These estimates are for the time of staff at USTR; other TPSC agencies also have spent considerable time on environmental reviews of trade agreements. For USTR, work on reviews is concentrated in the Office of Environment and Natural Resources (ENR), but contributions are required of other offices in USTR. Although no ENR staff work full-time on reviews, each review has required significant contributions from at least 2–3 ENR staff, including the lead negotiator for environment for the agreement under review.

Review-related activity	Person-hours
US-Jordan FTA .....	250
US-Chile FTA .....	700
US-Singapore FTA .....	400
FTAA review (including QAWG <sup>1</sup> report) .....	700
Other reviews in process .....	200

<sup>1</sup> Report of the Interagency Quantitative Assessment Working Group to develop approaches to quantitative analysis.

Because USTR has been performing the work on the reviews in-house, it is difficult to provide a dollar cost estimate. I cannot speak to the costs incurred by other agencies.

*Question 9:* How much money is needed for trade-related technical assistance and capacity building for current FTA and multilateral negotiations?

*Answer:* The various trade capacity building initiatives relating to FTA and multilateral negotiations are at different stages. In our bilateral FTAs and the Free Trade Area of the Americas (FTAA), we are in the early stages of identifying the needs in the developing countries in three areas: preparation for negotiation; implementation of commitments and transition to free trade. Since the Doha Ministerial Meeting, the World Trade Organization (WTO) has developed an annual technical assistance plan. For the WTO's 2003 plan, developing country members submitted over 900 requests from 111 countries all along the development spectrum with the approved plan. The budget for WTO's 2003 plan is CHF24 million or approximately \$17.4 million.

The U.S. government provided over \$598 million in FY '01 and \$637 million in FY '02 in trade capacity building (TCB) activities. We feel it important that the funding levels continue to increase. Our ability to meet the needs of countries will also be helped by the Millennium Challenge Account, which affirms that economic growth is key to development and targets assistance at those countries that have adopted the governance, health, education and economic policies that promote growth.

We also want to explain that many programs and agencies are covered by the TCB funding numbers mentioned above.

These activities cover bilateral trade programs, programs specifically designed to support preference programs such as AGOA, the bilateral FTAs, the FTAA's Hemispheric Cooperation Program (HCP) and WTO multilateral negotiations. Our technical assistance provided in APEC is also reflected in this overall amount.

USAID provides the bulk of the funding (approximately 65% of the USG total TCB assistance), either directly or through programs such as the Department of Commerce's Commercial Law Development Program. The U.S. Trade & Development Agency, the Department of Labor, the Environmental Protection Agency and other agencies such as the Federal Trade Commission, the Animal & Plant Health Inspection Service in USDA, and the U.S. Customs Service all contribute to the U.S. government's effort to build the trade capacity of developing countries.

Our success with AGOA in assisting developing countries with programs that seek to maximize the benefits of trade has shown us the breadth of programs needed. As we respond to the short-term needs of developing countries to improve their ability to participate in negotiations and to implement fully the FTA agreements, the U.S. government—particularly USAID—seeks to provide medium and long-term assistance so that our developing-country FTA partners transition to free trade efficiently.

The success of our trade negotiations and implementation of our preference programs with developing countries depends on adequate TCB funding. We see this as a win-win for development and for the United States. We are working with other agencies on trade-related capacity building to do our part so that TCB initiatives are the best they can be. Furthermore, in the CAFTA negotiations, the SACU FTA negotiations and in the FTAA HCP, we are developing processes for TCB activities which will mobilize not only government resources but also resources and expertise from international financial institutions, foundations, NGOs and the private sector.

*Question 10:* If the Kyoto Protocol enters into force, implementation measures taken by Annex I Parties to the Protocol may cause increases in their prices of domestic energy and goods. To make the climate regime more effective, these countries may decide it is necessary to impose measures on imports from Annex I non-Parties. Such measures might include:

- Border tax adjustments on carbon or other GHGs imbedded in energy or goods;

- Labeling requirements to identify the quantity of carbon or other GHGs imbedded in energy or goods;
  - Quantitative restrictions on GHGs, energy or goods produced with large quantities of GHGs, or goods that consume large quantities of energy, carbon or other GHGs.
- a. Would the US consider any of these or other possible trade-related measures illegitimate?
  - b. How would the U.S. respond to any such measures?
  - c. Would your answers differ if the Kyoto Protocol does not enter into force, and if so, how?

*Answer:* As noted in response to your first question, we are aware that there has been discussion of the possibility of Annex I Parties to the Kyoto Protocol imposing carbon tariffs, quotas, or labeling requirements on energy-intensive imports from Annex I non-Parties. However, we are not aware of any impending actions along those lines that the European Union or any other Annex I Party is actively considering. In fact, the European Union still has not established its own internal carbon-trading regime, making serious consideration of any external regime unlikely, at least in the short-term.

Were a WTO Member to employ such measures, regardless of whether the Kyoto Protocol had entered into force, we would examine them in the light of WTO rules and obligations, as we would any other measure affecting imports from the United States. We would have to know the details of any such measures, however, before we would be able to determine an appropriate response.



## COMMUNICATIONS

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### STATEMENT OF THE CONSUMER PROJECT ON TECHNOLOGY

#### I. Introduction.

The Consumer Project on Technology is a non-profit organization located in Washington, DC that represents consumer interests in intellectual property related trade negotiations. Our work is extensively documented on the Web at <http://www.CPTech.org>. Our comments for the record in today's hearings address two important issues of trade policy – the US position in the current WTO negotiations over implementation of paragraph 6 of the Doha Declaration on TRIPS and Public Health, and the reports of limitations on the use of compulsory licenses on patents contained in the US/Singapore Free Trade Agreement.

#### **II. US Government efforts to limit the scope of diseases in the implementation of the Doha Declaration on TRIPS and Public Health have outraged the public health community, and have been presented in a dishonest way by the White House and USTR, damaging US reputation abroad**

In November 2001, the United States and the other Members of the World Trade Organization signed the Doha Declaration on the TRIPS Agreement and Public Health, which states that the TRIPS Agreement “**can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all.**” The Doha Declaration specifically reaffirms the right of WTO Members to issue compulsory licenses and to determine the grounds on which they may be issued. One issue that delegates left unfinished was spelled out in paragraph six:

*6. We recognize that WTO members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.*

Only a handful of countries have a large enough domestic market to support efficient domestic only production of generic drugs. Ironically, the "free trade" WTO rules impose a highly inefficient country-by-country rule for generic production under compulsory licenses. Poor countries were promised in Doha that this would be fixed, as a condition for a new round of trade negotiations.

The White House, including **Karl Rove**, was asked by CEO's of Pfizer, Merck, BMS, GSK and other large firms, to **renege** on the promises made in Doha, and they have done this by seeking to limit the solution to only the smallest market countries, so generic suppliers will not have sufficient economies of scale, and to limit the solution to a handful of diseases. This has been justified in the US press by a series of offensive statements about compulsory licensing for Viagra (a product already off patent in many countries), combined with bald assertions that the poor in developing

countries should not have access to affordable treatments for cancer, diabetes, heart disease or asthma – in the face of mountains of evidence that these diseases are huge public health problems in the developing world.

Cardiovascular disease is the world's leading cause of death, killing 17 million people a year, 78% of which live in developing countries. 177 million people in the world are diabetic, and this number will be 300 million in 2025, most of which are in developing countries. The World Health Organization estimates that 150 million people have asthma, once again – mostly in developing countries. An estimated 80 million persons in developing countries suffer from cancer without treatment.

"In the context of the Doha Declaration on the TRIPS Agreement and Public Health, we have supported the public health principle that the people of a country which does not have the capacity for domestic production of a needed product shall be no less protected by compulsory licensing provisions (or other TRIPS provisions) than people living in countries capable of producing the product. We are taking the line that the need of poor countries for lower prices should have a broad basis." *Dr Gro Harlem Brundtland, Director-General World Health Organization*

"Developing countries see [limits on scope] as a retreat from the rich countries' promises that trade talks would address their needs. After all, half of the premature deaths in poor countries are from noninfectious causes like heart attacks and cancer. Does a child dying of leukemia have less right to low-cost medicine than a child with AIDS?" -- *Nicholas Stern, Chief Economist of the World Bank*

"The solution must not be restricted to medicines and medical technologies for the treatment of HIV/AIDS, tuberculosis and malaria. While there is no doubt that these epidemics are ravaging developing countries, they cannot be considered the sole public health threats in poor regions—either now or in the future. Furthermore, the WTO is not the appropriate forum for determining sovereign countries' national public health priorities and needs." -- *Allan Rosenfield, MD, Dean, Mailman School of Public Health, Columbia University, Michael H. Merson, MD, Dean of Public Health, Yale University, Laurence G. Branch, Ph.D, Dean, College of Public Health, University of Southern Florida, Stephen M. Shortell, Ph.D, Dean, School of Public Health, University of California, Berkeley*

For more information: <http://www.cptech.org/ip/wto/p6/>

### III. THE PROPOSED U.S. – SINGAPORE FREE TRADE AGREEMENT RESTRICTIONS ON THE USE OF COMPULSORY LICENSING WILL HARM US CONSUMERS AND US INDUSTRY

The United States/Singapore Free Trade Agreement currently under negotiation has not yet been made available to the general public. However, official trade advisory committees have had the opportunity to review the draft and make public comments on it. According to the report of the Industry Functional Advisory Committee on Intellectual Property Rights (IFAC-3), released on February 28, 2003 and available electronically on the U.S. Trade Representative's website, the working text of this free trade agreement "sets out the highest standards of protection and enforcement for intellectual property yet achieved in a bilateral or multilateral instrument, treaty or



convention." The IFAC-3 report lists the following specific limitations the text will place on the U.S. and Singapore's rights to issue compulsory licenses for patents:

*The Singapore FTA imposes restrictions on a country's authority to grant compulsory licenses to situations that are needed to remedy anti-trust violations, national emergencies or other circumstances of extreme urgency, and for public non-commercial use. With respect to cases of public non-commercial use or in the case of a national emergency or other circumstances of extreme urgency, the FTA specifies that such unauthorized use is to be limited to use by the government or third parties authorized by the government; that the patent owner is provided with reasonable and entire compensation for such use and manufacture; and that Singapore shall not require the patent owner to transfer undisclosed information or technical "know how" related to the patented invention that had been subjected to the involuntary use authorization.*

This is a standard that appears to go far beyond the WTO or NAFTA rules on patents, and it will hamstring US policy makers at a key moment in time, as countries throughout the world seek to address abuses of patents in a wide range of areas – medicines, diagnostic tests, clean fuel, business methods, software and Internet technologies, etc.

Nearly every industrialized country outside of the US has a general authority to grant compulsory licenses on general public interest grounds, and many have argued that the US needs to add this general authority to our patent laws to deal with the escalating evidence that abuses of patent rights are widespread and growing, creating problems in controlling costs for new medicines, addressing access to research tools, managing the development of new standards in the software and internet area, or for addressing problems such as the Unocal patent on clean fuel.

The Singapore agreement also appears to outlaw technology specific compulsory licensing statutes, such as the US Clean Air Act, (42 USC Section 7608: Air Pollution Prevention and Control – General Provisions - Mandatory licensing), or our compulsory licensing statutes for civilian atomic energy (42 USC Section 2183), and one would also want to see how it may impact our laws on patents on black lung disease (30 USC Section 937: Mine Safety and Health – Contracts and Grants) or the Bayh Dole Act (35 USC Section 203: Patent Rights in Inventions Made with Federal Assistance).

#### **Singapore rules for compensation in compulsory licensees**

Also troubling are the reported restrictions on methods of determining adequate compensation under compulsory licensing of patents. In the copyright field, the US government has wide latitude to set compensation for compulsory licenses in a manner that promotes the public interest. This should also be the case for patents (the recent memory of the Anthrax case and US efforts to address the pricing of CIPRO should be recalled).

#### **Deficiencies of the IFAC-3 membership**

Finally, it should be noted that USTR refuses to include consumer interests on IFAC-3, the advisory board for intellectual property trade matters, which is partly responsibility for the tendency to promote such anti-consumer trade policy on matters concerning intellectual property. Note here also that US consumers presently pay more than \$180 billion for pharmaceutical drugs, often lack access to the newest life saving medicines, and have an important stake in the global rules on patents.

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### STATEMENT OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

#### Members of the Committee:

The National Association of Manufacturers appreciates this opportunity to submit comments for inclusion in the official record of the Committee's March 5, 2003 hearing on The Administration's Trade Agenda.

Manufacturing in our country is challenged today as never before. Our 14,000 companies find themselves on the front lines of the most intense global competition in history, a competition that makes it virtually impossible for them to raise prices even as costs continue to rise appreciably. Despite outstanding productivity, innovation and efficiency gains by U.S. manufacturers, the current economic climate has yielded the slowest manufacturing recovery in decades and a decline in manufacturing employment of more than two million jobs.

Many factors have led us to these sobering circumstances, and the NAM's Board of Directors in February 2003 approved a multi-pronged, comprehensive strategy to tackle a broad range of problems through persistent governmental policy reform and

action. One of the major challenges is the continued existence of international trade and investment barriers that inhibit manufacturing exports and the conduct of business abroad. The reduction and removal of those barriers can only be achieved through a proactive U.S. trade policy that includes strong American leadership in negotiating trade agreements. It is on this aspect of U.S. trade policy that we wish to concentrate our remarks.

The NAM supports the Bush Administration's aggressive policy of competitive liberalization, which aims to maximize U.S. leverage by pursuing free-trade negotiations simultaneously at the multilateral, regional and bilateral levels. We concur with the notion that it is in the interest of the United States to have multiple negotiating options and partners so as not to be held hostage to foot-draggers in any one particular negotiation and in order to set trade-liberalizing precedents that can be transferred from one set of talks to another.

We do believe, however, that optimal implementation of this pro-active multifront strategy may require additional human and budgetary resources if it is to be sustained or expanded. The Senate Finance Committee should take this into account and make appropriate funding recommendations to its colleagues on the Appropriations Committee. If the United States is to obtain high-quality trade agreements, it must make available sufficient negotiating resources.

Beyond the raft of negotiations currently underway, the NAM would be most enthused by an effort to obtain significant gains for U.S. manufacturing exports by extending the cutting-edge disciplines of the Singapore agreement to other Asian economies. In this regard, the Enterprise for ASEAN Initiative announced last year by Ambassador Zoellick remains of strong interest to the NAM.

The NAM also wishes to point out one section of the Trade Act of 2002 that does not seem to have been implemented yet. The Trade Act's Paragraph 2102(c)(12) explicitly calls for consultative mechanisms to be established among parties to trade agreements to scrutinize whether a foreign government has manipulated its currency to promote a competitive advantage in international trade. The NAM has not seen this paragraph utilized by the Administration, and urges this be rectified. There is widespread concern, particularly regarding Asian currencies, that countries are intervening to maintain their currencies at deliberately low rates, which puts U.S. agricultural, industrial, and services producers at a disadvantage.

The remainder of our comments will focus on U.S. manufacturing priorities in the ongoing WTO, FTAA, and bilateral negotiations.

#### *WTO and the Doha Development Agenda*

The NAM acknowledges agriculture's prominent place atop the Doha Development Agenda (DDA). Without progress on agricultural reform, a successful round is all but impossible. We recognize that to obtain the enthusiastic participation of the developing countries in the WTO talks, the United States, Europe and Japan must engage each other and the rest of the world on agriculture. The Committee should remain concerned, as are we, that there appears to be little progress toward making the March 31, 2003 deadline on establishing modalities for agricultural market access negotiations. A failure or postponement there will no doubt reverberate throughout all other aspects of the talks, including those of most importance to makers of industrial goods.

Nonetheless, the NAM reminds the Committee that U.S. agricultural exports will total to a little more than \$50 billion a year, whereas our manufacturing exports total nearly \$50 billion *each month*. And this tilt toward manufacturing trade is not exclusively an American phenomenon. Nearly eight out of ten export sales across the globe are also manufactures. What this means, of course, is that there are many trading partners in the WTO who should share our interest in further liberalizing trade in manufactured products.

However, U.S. industrial exports continue to face disproportionately high trade barriers overseas. Whereas U.S. industrial tariffs average less than 2 percent, we often face bound tariff levels averaging 18 percent in the developing countries of Asia or 31 percent in South America. This it is a reality that the nation's senior trade policymakers simply must take into account in determining the optimal strategic approach for achieving the broadest possible U.S. gains in trade negotiations.

Likewise, the NAM recognizes that a failure by the United States to comply with the WTO decisions regarding the Foreign Sales Corporation/Extraterritorial Income regime could also prejudice a successful outcome to the WTO negotiations. However, repeal of ETI should be coupled with an alternative, WTO-compliant benefits regime that preserves as much of the benefit as possible for U.S.-based manufacturers that currently employ ETI.

Another factor of concern to the NAM is the need to insist on strict compliance by China and other new entrants to the WTO with their accession commitments.

Failure to insist on complete compliance and fair practices would risk undermining support for the WTO among U.S. business, Congress, and the American public.

The interests of U.S. manufacturers run throughout the entire Doha Development Agenda of world trade negotiations. Here we will highlight five areas of particular importance: industrial tariffs, non-tariff barriers, transparency in government procurement, customs facilitation, and intellectual property rights.

#### *Industrial Tariffs*

The WTO non-agricultural market access negotiations should aim at achieving the broadest and deepest possible reductions in tariffs and non-tariff measures, with the particular objective of *totally eliminating as many tariffs as possible*. In the absence of substantial gains in genuine non-agricultural market access, the DDA simply could not be considered a success. Merely bringing bound rates down to the level of existing applied rates, for example, would be an unacceptable outcome—for no genuine improvement in market access would result.

We therefore are very pleased with the Administration's historic WTO non-agricultural market access proposal calling for the total elimination of all industrial tariffs by 2015. Achieving this ambitious result would speed global economic growth and living standards worldwide. Many of our members are especially pleased that the Administration not only set forth the visionary goal of complete tariff removal, but also incorporated some key intermediate steps designed to move the world toward that goal in a pragmatic way.

As the Administration's proposal recognizes, a combination of negotiating methods ("modalities") is needed to achieve this bold objective. This combination involves a sectoral tariff elimination modality (STE—often referred to as "zero-for-zero"), wherever possible, supplemented by a more general approach that would rely principally on an overall formula cut. Any formula, however, must result in *genuine* reductions in tariffs—i.e., reductions in the actual applied rates. Additionally, the modality combination must include a request-offer approach for those industries whose complexities cannot be addressed appropriately by a formula approach.

Many NAM members believe that the most practical method of obtaining the greatest non-agricultural market access gains is through the STE, or zero-for-zero, modality. STE is a proven approach that solves negotiating problems other modalities cannot manage—particularly in resolving the problem of the huge disparity between the generally low U.S. industrial tariffs and the high tariffs in developing countries. For more detailed information on how an STE modality would work, we refer you to the submission from the Zero Tariff Coalition, which is comprised of 25 U.S. industrial sectors that believe this approach would work for them. That coalition, brought together by the NAM in 1999, is now working closely with USTR and the Commerce Department to promote support for a zero-for-zero modality among other nation's industries and governments.

As not all sectors will participate in the STE approach, that modality should be accompanied by a formula approach to ensure that tariff cuts are made across the board in all sectors. The aggressive U.S. formula proposal is ideal in this respect. It would be calculated based on applied rather than bound rates and would slash all tariffs to no more than 8 percent after five years and then eliminate them over five more years.

The complexity of the market-access situation in some sectors, moreover, means that there must be provision for some exceptions to this overall guideline—including providing for a request-offer approach for industries that view such an approach as more likely to achieve the results they seek. The request-offer modality is necessary to provide appropriate flexibility to U.S. negotiators in dealing with some sectors and industries. Failure to mention this modality is perhaps the only shortcoming, in NAM's view, to USTR's outstanding industrial market proposal last November.

#### *Non-Tariff Barriers*

Negotiations on non-tariff barriers (NTBs) are explicitly provided for in the Ministerial Declaration and need to be addressed as an essential feature of the non-agricultural market access negotiations. NTBs have been rising in importance as trade-distorting factors, including such measures as discriminatory standards, conformity assessment requirements, pre-shipment inspections, custom valuation practices, regulatory requirements, port procedures, and security procedures. Building on the incomplete NTB work of previous multilateral trade negotiations, a strong effort should be made to reduce or eliminate the trade-impeding effects of non-tariff measures.

Care must be taken, however, to ensure that any such effort in no way is used to undermine legitimate health, safety, and environmental protections that are

WTO compliant and based on strong scientific justification. Additionally, as noted above, WTO-consistent trade remedies are not non-tariff trade measures.

A realistic way to proceed with NTB negotiations may be via a request-offer process, in which countries develop lists of other countries' practices that impede trade, and then exchange commitments to eliminate or alter those practices. A rules-based approach may also prove useful, reexamining issues such as customs valuation, preshipment inspection, standards and conformity assessment, and others. There may be considerable opportunity for improvement without reopening previous agreements, particularly through the device of agreeing on clarifications or interpretations to increase the effectiveness of existing agreements. NTB concessions should be quantified in an agreeable fashion, enabling their resulting reductions to be taken into effect in calculating the overall balance of concessions.

#### *Transparency in Government Procurement*

Another Doha priority for the NAM continues to be the achievement of an effective agreement for transparency in government procurement. Government procurement represents nearly fifteen percent of the world's GDP, a potentially massive global market. U.S. firms compete very strongly and effectively in that market when purchasing decisions are based on cost, quality and other competitive factors. Our exporting firms are less successful when government purchasing decisions are made behind closed doors—in non-transparent ways that allow bribery and corruption to come into play. Unfortunately, the latter situation describes the procurement process in many developing countries today, where public notification and due process with respect to tenders are often the exception rather than the rule.

Developing countries have not signed on to the existing WTO Government Procurement Agreement, but the proposed new WTO agreement on transparency of government procurement is one that would address many of the problems in a way that we believe can be accepted by the developing countries. Transparency in government procurement would benefit not just U.S. exporters in competing against other exporters on a more level playing field, but would also be a major factor helping developing countries. It would be a strong force making corruption more difficult and would channel much more of their resources into efficient purchases and away from bribery.

The NAM was disappointed that the Doha Declaration pushed off negotiations on transparency in government procurement until after the Cancun WTO ministerial this coming September. The Committee and the Administration should focus on ensuring that there is no further delay in launching and concluding this critical aspect of the overall negotiating round.

#### *Trade Facilitation*

Another area in which the start of negotiations has been delayed until Cancun is that of trade facilitation—agreement on simpler and less costly customs and other trade rules. This is of particular importance to the 95 percent of American exporters who are small and medium-sized and see current trade rules as expensive trade barriers. Additionally, small firms as well as large would benefit from WTO rules that would ensure cyberspace would remain a tariff-free area permitting the further rapid growth of global e-commerce. As with transparency in government procurement, the Committee and the Administration should act in coming months to ensure that formal negotiations move ahead in Cancun.

#### *Intellectual Property Rights*

The competitive advantage of American manufacturing relies increasingly on its advanced technology and the protection of that technology—in other words, on effective enforcement of intellectual property rights. In that regard, the United States should continue to press our WTO trading partners for full and timely implementation of the Agreement on Trade-Related Intellectual Property Rights (TRIPS) negotiated in the Uruguay Round.

Lessening the protection of intellectual property would have profound negative consequences not just for our global competitive position, but also for the flow of new inventions that will allow people all over the world to enjoy a higher quality life. President Abraham Lincoln's reminder that "the patent system added the fuel of interest to the fire of invention" applies as well to the TRIPS agreement.

Further, the rampant counterfeiting and piracy of consumer products that occurs in many developing countries also poses a severe risk of personal injury or loss of life related to customer use. Legitimate U.S. manufacturers have no control over the safety or quality of ingredients that are formulated into these fake products. The risk to consumers' health and safety, coupled with the severe economic harm done to U.S. producers, warrant a higher level of attention by the Committee to this issue.

*Free Trade Area of the Americas (FTAA)*

The NAM is strongly supportive of actions the Administration has taken to move the Free Trade Area of the Americas negotiations forward. The FTAA is the critical regional piece of Ambassador Zoellick's "competitive liberalization" strategy, and it is imperative that the hemispheric talks stay on track for conclusion by early 2005. The Committee should know that the NAM estimates that an effective FTAA would result in a tripling of U.S. exports to Central and South America within a decade of implementation—from today's \$60 billion of annual exports to nearly \$200 billion.

The FTAA therefore represents a major challenge and a major opportunity for the U.S. government, U.S. business, U.S. society, and the Western Hemisphere as a whole. The process of obtaining Trade Promotion Authority was a difficult, drawn-out struggle that cost the United States in terms of its policy credibility in the hemisphere. While congressional approval of the Trade Act of 2002 has helped reduce concern about U.S. trade views to some extent, suspicion of U.S. commitment to open markets is at an all-time high in the Americas. When coupled with the recent period of financial volatility and political uncertainty, the doubts about the U.S. commitment to open markets has reduced the political constituency in favor of free trade in virtually every Latin American country.

As in other negotiations, we believe a principal focus must be on removing developing country tariffs on industrial goods as expeditiously and comprehensively as possible. Our preliminary understanding of the initial market access offer tabled by the United States last month is highly positive. We look forward to learning more about it and about the initial offers of other FTAA countries, and our members plan to intensify their engagement with USTR in the months leading up to the June 15 deadline for submitting requests for improved offers.

The Administration's proposal calls for a wide range of industrial sectors to have their duties eliminated immediately under the FTAA. NAM members from those sectors applaud that initiative and expect the Administration to follow-up its initial offer with aggressive pursuit of other countries' agreement to up-front duty elimination. The NAM and others in the U.S. business community continue to do their part through active participation in the Americas Business Forum and in bilateral discussions with foreign counterparts.

In the NAM's view, a successful FTAA must accomplish at least six goals that are particularly critical for U.S. manufacturing. They are: 1) rapid removal of industrial tariffs; 2) design of simplified and uniform rules of origin; 3) removal of non-tariff barriers, including technical barriers to trade and customs-related measures; 4) elimination of barriers and conditions on investment; 5) improved protection of intellectual property rights, especially by stepped-up enforcement; and 6) comprehensive, transparent, and effective access for bidding on government contracts from a broad range of federal and sub-federal entities.

*Bilateral Agreements*

The NAM strongly supports congressional passage of the recently concluded free trade agreements with Chile and Singapore. We are playing a leadership role in the U.S.-Chile Free Trade Coalition and are also a principal member of the U.S.-Singapore FTA Coalition. Both agreements provide front-loaded tariff removal for industrial and consumer goods. They are largely state-of-the-art, cutting edge agreements that advance disciplines of interest to manufacturers in the areas of intellectual property rights, customs facilitation, access to competitive services, investment protection, and electronic commerce. They also faithfully implement the TPA compromise on labor and environmental issues related to trade by incorporating labor and environmental provisions into the dispute settlement provisions of the core agreement, while emphasizing cooperative action and monetary fines over resort to removal of trade benefits.

With respect to the upcoming crop of negotiations just getting underway, the NAM takes strongest interest in the Central America and Australia accords. Central America is of interest because of its role in catalyzing the FTAA negotiations. Australia holds much promise because elimination of its average 4.7 percent tariff on U.S. goods could produce an estimated additional \$1.8 billion in annual sales of U.S. manufactured products.

*Conclusion*

The NAM appreciates this opportunity to inform the Senate Finance Committee about its views on the U.S. trade policy agenda.

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## STATEMENT OF THE ZERO TARIFF COALITION

Members of the Committee:

Thank you for the opportunity to provide these written comments as part of the official record of the March 5, 2003 hearing on "The Administration's Trade Agenda."

The Zero Tariff Coalition represents 25 sectors of the American economy that believe that the most practical method of obtaining the greatest non-agricultural market access gains for their sectors in the World Trade Organization Doha round is through a Sectoral Tariff Elimination (STE) approach. A list of the Zero Tariff Coalition sectors is attached to this submission.

STE is a proven approach that solves negotiating problems other modalities cannot manage—particularly in resolving the problem of the huge disparity between the generally low U.S. industrial tariffs and the high tariffs in developing countries. The approach is basically the same as the Uruguay Round's successful "Zero-for-Zero" initiative and the WTO Information Technology Agreement (ITA), though modifications have been incorporated to broaden its applicability.

The Senate Finance Committee endorsed such an approach in its report on the Trade Act of 2002. We urge the Committee to join us in pressing U.S. negotiators to 1) ensure that zero-for-zeros, i.e. STEs, are incorporated as a modality for the nonagricultural market access group negotiations in any decisions reached on modalities, as called for by the current deadline of May 31, 2003; and 2) that U.S. priority sectors, including all the sectors of our coalition, be listed as sectors that will pursue STE agreements at the WTO ministerial meeting this September in Cancun, Mexico.

Under STE, countries comprising a satisfactory "critical mass" of trade in a particular sector would agree to eliminate tariffs in that sector at the earliest feasible time. Countries would only agree in those instances in which their specific sectors wanted to participate in particular sectoral arrangements. By requiring only a critical mass of countries in each sector, the STE modality provides flexibility to exempt least developed countries as well as others that want to be excluded, while ensuring that the sectoral agreement remains commercially meaningful. To assure flexibility, the definition of "critical mass" must be sector-specific rather than an overall grouping of countries that participates in all sectors.

Flexibility would be maximized by avoiding defining these sector-specific "critical masses" early in the negotiations. Moreover, product coverage for any given STE sector would be determined by the participating countries. Further flexibility can be gained by allowing longer transition periods for some countries and for certain sensitive products. Moreover, for some sectors, a critical mass of countries may be unable to agree on the goal of zero duties, but ultimately might be able to decide on a harmonized rate that is significantly lower than current applied rates.

The possibility of negotiating an initial STE package of sectors as an interim result prior to the conclusion of the DDA should be considered as an option, as is provided for in the Doha ministerial declaration. An interim STE result could be provisional and should be taken into consideration in determining the DDA's final balance of concessions.

To ensure wide interest, all WTO members should be encouraged to recommend sectors for STE treatment. Maximum attention should be given to STE candidates raised by developing countries. Additionally, the Doha Declaration calls for environmental goods and services barriers to be cut, and this sector should be an STE candidate.

In addition to new STE's, country and product coverage should be expanded in existing sectoral measures initiated in the Uruguay Round. Emphasis should also be given to increasing the country participation and product coverage of the Information Technology Agreement (ITA), and to gaining complete elimination of tariffs (as opposed to harmonization) in the chemical sector by more countries than just those currently party to the Chemical Tariff Harmonization Agreement (CTHA).

Most of our sectors also want their products included in the "immediate elimination" basket of the tariff phase-out schedules negotiated in the Free Trade Area of the Americas or any bilateral or sub-regional trade agreements.

## **Zero Tariff Coalition**

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### **U.S. Sectors Advocating Sectoral Tariff Elimination (STE) in WTO's Doha Development Agenda Non-Agricultural Market Access Negotiations**

chemicals  
crop protection chemicals  
construction & mining equipment  
copper & copper alloy brass mill products  
cosmetics  
distilled spirits  
electrical equipment  
energy products  
environmental products  
fertilizer  
fish & seafood products  
information technology & electronics products  
gems & jewelry  
medical equipment  
paper products  
pharmaceuticals  
printing, publishing & converting technologies  
processed foods  
soda ash  
sporting goods  
steel products  
toys  
wood machinery  
wood products

