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ONGOING U.S. TRADE NEGOTIATIONS

HEARING

BEFORE THE

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UNITED STATES SENATE

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ONGOING U.S. TRADE NEGOTIATIONS

WEDNESDAY, FEBRUARY 6, 2002

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. Max Baucus (chairman of the committee) presiding.

Present: Senators Rockefeller, Lincoln, Hatch, Murkowski, and Snowe.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The hearing will come to order.

Good morning, everyone. Welcome, Ambassador Zoellick. I note that Senator Rockefeller is not here. A little tongue-in-cheek, I ask you, where is Peter Davidson? [Laughter.] I know that he is here. Senator Grassley notified me he will be here quite shortly, too.

As I look back on nearly three decades of working on international trade issues, I must say I have always been impressed—and I think, Ambassador Zoellick, you will agree—of the extent to which there has been bipartisan cooperation. We have worked closely in that area. It is often said, and I remember Senator Howard Baker saying this frequently a few years ago, that politics should stop at the water's edge. That is true not only in national security, but I think it should also be true in trade. And it by and large has been true in trade.

In fact, when some of my esteemed former colleagues like Senator Jack Danforth, Bill Bradley, John Heinz, who have served on this committee, it was literally impossible to tell Democrats from Republicans. You had to have a scorecard to know.

But, unfortunately, the recent House vote on fast track negotiating authority underscored that the international trade debate has become a bit more difficult, and I might say, sadly, a bit more partisan.

That is something we cannot sustain. The only way to work our way through difficult issues we face every year is to maintain strong lines of communication to work hard, work together towards centrist solutions.

I will try to do that. I will try to continue to reach out to find and help forge these solutions. I hope that the President, the administration, and others in Congress can do the same thing.

First, with regard to the recently-launched round of WTO negotiations, I wanted to publicly outline my strong concerns.

I appreciate that launching the negotiation required a lot of effort on the part of you, Mr. Ambassador, and I appreciate that, as well as the effort of many other members of the administration. I also believe that there are very important potential agreements to be reached in many areas.

But the negotiations, as launched, I have one serious apparent flaw: the inclusion of trade remedy laws. These laws are not barriers to free trade. They promote free trade. How? By attacking unfair practices like dumping and subsidies.

These laws also provide a political safety valve to reassure Americans that free trade will also be fair trade, and that options are available to address serious import problems like those we now see in lumber and in steel.

Trade laws have become a political third rail, much like Social Security has become in another context. That is why 62 Senators joined me in writing the administration last year, urging that no trade agreement be struck that would weaken or undermine these laws.

Still, the administration agreed to place these laws on the agenda for WTO talks. I understand that this is a very preliminary stage in negotiations and that no agreement is immediately forthcoming. I understand that. But these laws should not be on the agenda at all.

I do not accept the position that it was impossible to launch a round without negotiating on trade laws. I believe that there is nothing realistically achievable in other areas that would be worth weakening U.S. trade laws.

Given my strong views on this issue, some of my colleagues will doubtlessly question the wisdom of even granting fast track authority to this administration. Indeed, I weighed this concern carefully in deciding to work with Senator Grassley and others to develop fast track legislation. I went forward only because I am confident that there are ample opportunities to block a poor deal on U.S. trade laws.

I want to be clear on this point. I will use every point of leverage available to prevent an agreement that would weaken U.S. trade laws. I believe a strong majority in both Houses of Congress would support such an effort.

Another of the most hotly-debated issues in recent years has been the appropriate role of labor rights and environment issues in international trade negotiations. After a long and difficult struggle, these issues are now generally recognized as an appropriate part of international trade discussions.

A chain of trade agreements, including NAFTA, the United States-Cambodia Textile Agreement, and, most importantly, the United States-Jordan Agreement, all demonstrate this point.

In developing the fast track legislation pending before Congress, the Jordan Agreement's treatment of environment and labor has been fully enshrined in negotiating objectives. As I have said before, Jordan is not a rigid model to be fitted precisely into all potential situations. I am open to considering alternate approaches, such as incentives, to make progress in these areas.

That said, Jordan constitutes a practical floor for future agreements. It is simply not possible to do less and gain broad support for a trade agreement.

For that reason, as the Congress moves toward action on fast track legislation, it is critical that the administration work to ensure that similar meaningful labor and environmental provisions be included in agreements being negotiated with Chile and with Singapore.

I have been troubled by rumblings that the Bush administration negotiators were less than enthusiastic in their efforts to complete negotiations on those critical provisions.

I am particularly concerned because Clinton administration trade negotiators have assured me that both countries agreed that the Jordan Agreement served as the basis for negotiations on labor and the environment.

In order to gain the trust of Congress, which is critical to achieve goals like the passage of fast track, and ultimately that of our trading partners, the U.S. trade negotiating strategy must be seen as a consensus strategy.

Moving away from the Jordan-based provisions on labor and the environment to please critics whose views are not in the mainstream would be a severe blow to that confidence and invite a new round of bitter partisan feuding.

Let me turn to an issue now where I believe you, Mr. Ambassador, and I share very similar views. While we sometimes disagree—although that is less often than not—there are issues where I strongly support the endeavors of you, Mr. Ambassador, and your staff.

I was particularly impressed by ann important and far-reaching report that you helped to author before you entered the administration.

The report was drafted by the Trade Deficit Review Commission, which included Defense Secretary Rumsfeld, former USTR Carla Hills, as well as Ambassador Zoellick. The Commission was unable to reach consensus on many issues, but there was unanimous agreement on one critical and timely topic: trade adjustment assistance.

Mr. Ambassador, you and your colleagues made many thoughtful and far-reaching recommendations on TAA, including extending TAA to secondary workers, extending the time period for TAA benefits, expanding efforts aimed at retaining workers, and providing health insurance to displaced workers.

I was truly impressed by this section of the report and these recommendations formed the basis of the bipartisan TAA legislation that was passed by this committee.

In the coming weeks, I hope to join it with other bills extending fast track in addressing other trade matters and win Senate passage on the combined legislation.

In addition to providing the committee with an overview of current trade negotiations, Mr. Ambassador, I hope you can spend a few minutes describing your work on that Commission as it relates to TAA and the committee's efforts to pass fast track. I look forward to your testimony.

I now turn to our good friend from the far northwest, Senator Murkowski.

OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. We are a little further north than the northwest. But, in any event, I do want to congratulate Ambassador Zoellick for the masterful job of negotiation on the Doha.

I think that at one time, at least in my opinion, there was very little chance for agreement. Given how far apart WTO members are on some basic issues, why, I think your accomplishment is noteworthy.

I think also that any consensus reached is attributable to you and your colleagues on your negotiating team.

Now, the Doha language on antidumping may seem dramatic in the sense of concessions to some members of the committee. Methinks they doth protest too much. Because in reality, it is my interpretation that the language on antidumping agreed to by USTR was fairly mild, and can even be said to have achieved recognition of legitimacy of antidumping rules, and so opening the door to potential market opening concessions by other WTO members.

That is how I read it. Not only is the language mild, it also does not predetermine any outcome. Agreeing to discuss something does not mean an agreement to any particular outcome. I think some have reached another conclusion.

I do believe the language affirmatively establishes the legitimacy of antidumping and countervailing duties as legitimate tools to counter unfair trade practices. I guess we could all ask, as a consequence of this effort, is the glass half empty or is the glass half full?

Well, it is more than the eyes of the beholder, but it seems to me it is more full than empty. Ultimately, the apparent concession on antidumping has paved the way for market opening concessions from other countries which will benefit our American farmers, agricultural producers, manufacturers, and certainly other exporters.

Agreeing to discuss an issue of importance to other WTO members in exchange for discussions on issues of importance to us, I think, is the right thing to do. That may not be the way we operate in the U.S. Senate, necessarily, but we are not a consensus-based organization. The WTO is. You have fostered that consensus, and I salute you.

I am just going to leave one bottom line. I know there is some unhappiness with the U.S. steel industry. I would suggest they spend a little more of their energies and initiatives in recognizing the opportunities here in the United States. If this gas line is built—and it will be built—it will use about 3,000 miles of steel that will either be built in the United States because U.S. steel can be competitive, or it will be imported in from Japan, Korea, Italy, and other nations. That order, Mr. Ambassador, is worth in excess of $5 billion.

Now, it would seem to me that the United States' steel industry should make a determination of whether it wants that business, whether it can gear up for that business, whether it can be com-

petitive for that business and support, the development of domestic energy resources in this country as we recognize the legitimacy of supporting, if you will, the domestic industry here at home, particularly when the development takes place here at home.

So, for those in the U.S. steel industry that are a little unhappy with your efforts, I suggest they spend their energies and efforts establishing whether or not U.S. steel can be competitive for an order of about $5 billion, or thereabout.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator MURKOWSKI. You will notice I did not ask any questions today.

The CHAIRMAN. I noticed. I was very impressed.

Ambassador, welcome. We look forward to your views.

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

Ambassador ZOELLICK. Thank you very much, Mr. Chairman and Senator Murkowski, for both your welcome, your encouragement, and, Mr. Chairman, your commitment to work together on these issues. I think we have done that pretty well last year, and we have got more ahead of us.

If I could just ask my full statement be submitted into the record.

The CHAIRMAN. Without objection.

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

Ambassador ZOELLICK. I really want to start by thanking you, Mr. Chairman, and the full committee for the very strong vote of support for the trade promotion authority bill. I know it came over here late in the session and it took a lot of leadership on your part, and others, for that strong vote.

I also, in Senator Grassley's absence, want to thank him because he has been a fantastic support, and the effort that Senator Murkowski made with Senator Bob Graham all during the course of the year to push the bipartisan approach that you talked about, Mr. Chairman.

This committee's support has been vital for us in terms of regaining momentum on trade, open markets for farmers and ranchers, for consumers and families.

I just noticed today, in coming up, Mr. Chairman, it is the anniversary of the Senate vote on my confirmation. So, I will not ask again, but I will——

The CHAIRMAN. I apologize for missing that.

Ambassador ZOELLICK. But I do think we made a lot of headway in 2001 together. We have got a lot of work to do, but I very much appreciate it.

I just thought I would highlight a few key components of our strategy headed forward. First, we are trying to build momentum for liberalization on multiple fronts. At the heart of our strategy is a competition and liberalization, with the United States as the center of a network of initiatives that, frankly, enhances our leverage.

On the global front, as you both mentioned, we were fortunate to be successful in Doha. But also I was very pleased we were able

to finally complete the accession of China and Taiwan in the WTO. Senator Murkowski has had a particularly strong commitment to the efforts of Taiwan, so it is something that his efforts long predated mine, as well as my predecessors in both administrations, particularly Charlene Barshefsky.

I am pleased that at the start of this year, the WTO—in fact, just at the end of last week—has now set up the framework for the negotiations. So, the process is moving forward.

On the regional front, we now have the FTAA, the Free Trade Area for the Americas, launched in a serious way, which has the vision of a free trade agreement among 34 democracies in the western hemisphere.

Indeed, this spring we will be moving ahead with the market access negotiations. Later in the year, Brazil and the United States take over the co-chairmanship. That is important, as the two economic powers in the hemisphere, to drive it forward.

On the bilateral front, as you mentioned, Mr. Chairman I am pleased that we got the Jordan Free Trade Agreement done, the bilateral agreement with Vietnam that Senator Kerrey had had a strong commitment to. We are moving ahead with the Chile and Singapore negotiations.

I might just mentioned briefly, Mr. Chairman, that the only holding up on environment and labor in those negotiations is, frankly, waiting to get some guidance from the Congress on this in terms of the TPA process. We are committed to addressing those issues. Indeed, I talked about with the foreign minister and trade minister of Chile when she was just recently here.

Also, the possibility that I have written to you and Senator Grassley about, about exploring new FTAs. I noticed that the AGOA legislation for Africa and the Caribbean Basin Trade Partnership Act both encouraged the administration to look at the possibilities of FTAs. You and Senator Grassley have written me also about Australia.

One of the things that I hoped, was however you think best, we could create some process by which we can discuss these, get the views of you and your colleagues of your particular interest, always keeping in mind that we are a little bit late in this game now.

The European Union has 29 free trade and customs agreements, 22 of which they have negotiated in the past decade, and they have got 12 more. If you look in *Financial Times* today, even China, just coming into the WTO, is now exploring a free trade agreement with the ASEAN countries.

Second, we are committed to enforcing and managing disputes, a point that you have emphasized, Mr. Chairman, because as we pursue new agreements we have to actively defend America's interests by vigorously enforcing the commitments that are made. I want to assure you and the committee that we will use all tools at our disposal, as we have done last year and will do going forward.

We try to manage disputes in a way that leads us to solving problems and improving trade on both sides. Here, in particular, I want to mention the softwood lumber area, where I know you have had a particular interest, Mr. Chairman. We have talked about it, and we may want to talk about it more today.

In particular, we are going to have he challenge of the follow-through on China and Taiwan, because now that they are in we have to make sure we get the implementation right, and that will be no small task.

Third, we are trying to broaden the circle of trade opportunity. Here, in particular, I think the United States as a country has an extraordinary to open and reach out to developing countries. They are going to be vital to our economic future and to building support for the trading system. Part of this is building formal and informal networks that can support reform, the rule of law, addressing issues of poverty.

All one has to do is look at the newspapers and recognize that we are, indeed, in the midst of a war on terrorism to appreciate the fact that a long-term struggle is going to require dealing with the economic problems of some of these countries.

I saw that Zbig Bryzinski said over the weekend, I think he said it right, is that I would not say that poverty by any means is a root cause of the terrorism, but I do think it provides a fertile field.

The United States, as you may know, has actually been leading the efforts to support developing countries through trade capacity building. We spend about $555 million a year because we have to help these countries simply be able to take part in the negotiations and implement them. Frankly, we need to do more with the development banks to try to encourage their support as well.

Another part of this strategy for developing countries is the preferential agreements, which you and others in the Congress have played a key role on. A very important one is the AGOA, for Africa. Indeed, next week I am leaving to Africa to try to follow up on this activity.

Another one which I know this committee has worked on, but I hope the Senate can give final action on, is the Andean Trade Preferences Act, which was passed in 1991, expired last year, and is causing some real harm to the four Andean countries that we have not moved forward.

Similarly, the Generalized System of Preferences, which has been in existence for about 25, 26 years, covers about 123 developing countries. I know the schedule is crowded, Mr. Chairman, and I know you have been committed to this. But anything we can do to get floor action on these to complete it will be very important for our trade relationships with the developing world.

Then also we need to bridge the gap with some of the new members, particularly the WTO. I know you have a particular interest, Mr. Chairman, in terms of Russia's accession, particularly in the area of agriculture, with Senator Grassley.

But we hope we can make progress this year and over the course of the President's first term to try to get Russia into the WTO under good rules and basis.

Fourth, we are trying to reach out to key stakeholders. This involves listening, it involves building networks, educating and acting. Here, in particular, I want to thank the help that Senator Grassley has provided in terms of reaching out to America's farmers and ranchers.

But it also involves seeking to help industries and workers be competitive and adjust to change. Both of you have mentioned in different ways the importance of the steel industry.

As I think Chairman Baucus, in particular, knows, we worked with the wheat gluten and the lamb industry on their safeguard issues to make sure that they had a chance to go forward in compliance with the rules.

Obviously, this administration did something that did not happen before, which is to launch a 201 safeguards investigation. Now we are in the final stages of that determination.

Mr. Chairman, you mentioned trade adjustment assistance. I would be pleased to talk about this more, although obviously the Department of Labor is the lead on this. I know they have been working with your staff, quite constructively, I hear.

But I am in total agreement about the importance of trade adjustment assistance. I know it is something that you, the Majority Leader, and Senator Bingaman have played an important role on, and Senator Snowe as well. Obviously, there are going to be differences about how to approach this.

But in terms of the thrust of doing it and the need to get it reauthorized in an improved fashion, I will certainly do what I can, Mr. Chairman, to work with you to get it done. I have always said that if we are going to have a free trade system and people will need to adjust, it is certainly appropriate to try to help them do so.

We have also been meeting with business, environment, and labor leaders on a range of issues. Indeed, given the unusual security circumstances in Doha, I was delighted that we were able to do some of the first-ever Web briefings with the many people that advise us.

Another area that I know, Mr. Chairman, you have had a particular interest in, and I want you to know I have been focusing on, is the NAFTA Chapter 11 investor state issue. This is obviously a very complex and difficult issue.

I have been having a series of meetings with both the business and the NGO community, trying to build on some of the points that are in your TPA bill to see what we can do to try to bridge some of the gaps on that issue. As you know, it is going to take a lot of work. It is not an easy one.

Then we have also, as part of reaching out, tried to make the case for trade in correcting misinformation. A lot of people do not know the benefits of NAFTA and the Uruguay Round, which you and others here pushed so hard to accomplish.

It is a meaningful number to me that the statistics compiled by our predecessors and others revealed that, for the average family of four in America, those two agreements produced added income and lower taxes of about $1,300 to $2,000 a year for a family of four.

For the new launch of the negotiations at Doha, there is already a University of Michigan study that just said, well, if you cut the tariffs in industrial goods and agriculture, it does not even look at the services area, you can produce an annual benefit of about $2,500 a year for a family of four. So that is real money, when people talk about tax cuts.

Obviously, all throughout America you have got a lot of farmers and ranchers; obviously in Montana. One in three acres in America is planted for export. Twenty-five percent of gross cash farm receipts are from export.

Fifth, and finally, Mr. Chairman, I think we have to always emphasize on connecting trade to our values. Free trade is about freedom. It is about spreading the rule of law and about openness and opportunity. But we also have difficult issues to deal with, such as the question of public health crises.

So one of the topics that we struggled with at Doha, and I was pleased with our result, was coming to some reconciliation of how the intellectual property regime, the TRIPS regime, could include, and does include, the flexibilities to deal with developing countries struggling with pandemics like HIV–AIDS, malaria, and tuberculosis.

Or another one I worked with your House colleagues on, and I think a number of you have an interest, is this question of conflict diamonds, where, again, I think we can out something that deals with that issue, but also protects the trade system.

So we are looking for win-win ideas. We certainly know that there are many sources of those. I was pleased, again, at Doha, that working with the World Wildlife Foundation and others we were able to get a launch of negotiations on fish subsidies, because they are bad economics and they are bad environmental policy.

So, to sum up, I think we have a very full trade agenda ahead. I obviously would urge the Senate and the full Congress to try to pass trade promotion authority as soon as possible so we can move ahead on all fronts to break down barriers, globally, regionally, bilaterally.

From my experience, Mr. Chairman, the eyes of the world are on the Senate right now, because of the United States' leading role. There is a question right now about whether they will follow through on your good work, and Senator Grassley's good work, in this committee.

Then obviously we have a very important set of sensitive issues, including the Foreign Sales Corporation, steel, softwood lumber, high fructose corn syrup.

Coming back, I think, to the heart of efforts that you, Senator Grassley, and I all want to push, is that I have been very clear to our negotiators in Geneva that, now that we have got the Doha agenda launched, that we want to try to aim for a home run for America's farmers and ranchers.

So I want to thank you both very much, and would be pleased to take any of your questions.

The CHAIRMAN. Thank you, Mr. Ambassador. You have covered the waterfront.

I would like to explore a little bit the concern I have with trade remedy laws. It is true that we are in the preliminary stages, but that gives us an opportunity to keep something bad from happening.

If the United States were to agree to the changes proposed by developing countries, is it not fair to say essentially that those proposals would make our trade remedy laws with respect to developing countries somewhat useless?

Ambassador ZOELLICK. Well, Mr. Chairman, the developing world is now getting split on this. This is one of the issues that actually informed our efforts, in that a number of them, with the help of American lawyers, are now putting in their own trade remedy laws and they are increasingly using them against the United States. I will forecast that, when you are here 5 years from now, I will not be. But this will be an issue that will be increasingly important for people as we move forward.

So what I start with, and I think it is a similar point that both of you have, that effective trade remedy laws are critical for this country. I know you believe they are important. We believe they are important. We have used them. We have supported their use. You know that in terms of softwood lumber and other areas.

We may have some other areas I want to talk with you about where I think we might use them creatively. As you both have properly pointed out, we did not negotiate any changes in these laws.

Let me explain what the heart of our logic was. First, we felt it was important to be on an offensive agenda because, as I mentioned, there are now over 60 orders in effect against U.S. companies.

A lot of these actually go against the steel, the chemicals, and increasingly the agricultural companies. When Senator Blanche Lincoln was here, we talked last time about poultry, a South African decision used against the poultry area.

So part of what we have to try to do is make sure that any discussion that goes forward gets their use and application of these laws up to our level in terms of transparency and due process.

Second, and you have made this point, too, Mr. Chairman we need to correct some of the misinterpretations of the WTO panels. Just to take one prominent one, we feel the WTO panels have not given the appropriate deference in a standard of review like an American court would to our decisionmaking process. That's an important issue that we would like to try to get cleared up in this.

In terms of what we fought very hard for, as Senator Murkowski mentioned, is that we want language that says whatever is done has to preserve the concepts, the principles, the effectiveness of these trade remedy laws.

Indeed, I went back personally and talked to the Chileans, the Japanese, the Koreans, the South Africans, to emphasize we could not go along unless they also covered our instruments in this process.

The CHAIRMAN. Could I just explore with you how we address one of the questions you just raised? Namely, other countries' WTO appellate panels' interpretation of our laws. We are losing some cases. In a good number of cases, we have already lost. We Americans like to think, and I think it is true, that we are fair. We deal squarely. We are not trying to gain an advantage. We just do not want people to take advantage of us.

Yet, there is a growing perception that these panels are being a bit unfair. Now, in your judgment is it because of ignorance of U.S. law? Is it because of cultural bias that panelists might have that is different from American cultural interpretation of matters? Or, third, is it partly because, well, they are thinking the United States

is big, they can suffer the loss? In the worst, most cynical case, they are going to gang up on the United States a little bit.

Or it could be a fourth interpretation, that we, compared with other countries, operate a little bit more according to the rule of law, maybe a little less administratively compared with other countries.

So what has gone on here, and how do we address it honestly, directly? Because if we do not, if this trend continues and it is perceived as being unfair—and I am trying to be totally objective about this—I think it is bordering on being unfair.

If the trend continues, it will be unfair. It is going to lose a lot of American support for trade and there could be a backlash developing in America in the next few years against the WTO, against some of these countries, et cetera.

So, your thoughts on that, please.

Ambassador ZOELLICK. Well, I very much agree. I think you are being very objective. I would just emphasize a point, because I think you are going to see Dr. Supachi, the incoming head of the WTO. I told him yesterday, look, you have to understand, these antidumping and countervailing duty laws, like our safeguard laws, are exactly what you said, Mr. Chairman. We are a pretty open economy. That is the last defense and concern when there are unfair practices. If we cannot protect those, we cannot hold trade in this country.

Now, on the question of the panels, I do not think there is any target or ill will. We win a lot of these cases, too. Not surprisingly, we hear more about the ones we lose than the ones we win. But I think this actually goes to what I hope we can do in the Doha Round more effectively.

For example, a lot of the judges on these panels do not have the full background in this area. I think we ought to try to push for having a better sense of background.

The point that I made about deference. Just as in the American judicial system, there is a greater deference to the finders of fact on different things.

There are some rulings, too, that I think in the past have been done in a way where, frankly, we think they overstretched beyond where they should.

Now, you and I probably also could look at the American court system and find that we do not always agree with how judges come out. But in a way, part of the role of the WTO is just like the role of the Congress, when a court oversteps its bounds in terms of an interpretation of a statute.

So I think the strategy and objective you mentioned is exactly right. It has got to be a key part of our strategy going forward. I would be pleased also to discuss in greater length, if you would like, some of the areas where we would try to push the WTO in terms of interpretations that we think have gone too far.

The CHAIRMAN. It is difficult. We do not have time now to explore this, although I think it is probably one of the key issues facing our country with respect to national trade.

I have some concern with the statement you just made. You said we have a system in the United States where the court makes a "mistake" and it is reviewed at a higher level, presumably by the

Supreme Court. You made that analogy to the WTO. That is, the WTO reviews bad decisions.

The difference there is, the review here by a court is by a court, whereas the review by the WTO should not be in any sense a legislative review because that intrudes upon our sovereignty.

Now, we do want a fair system but we do not want a system that is unfair toward the United States. I think we are starting to move toward a system that is unfair toward the United States. Again, trying to be totally objective about this. I just urge you and the administration to give extra thought to that, because if we are going to develop American consensus and confidence in trade, we are going to have to, I think, address this.

Thank you.

Senator Murkowski?

Senator MURKOWSKI. Thank you, Senator Baucus.

I just have one question. I wonder, Mr. Ambassador, if you could elaborate a little bit on your experience at Doha and elsewhere on the issue of how critical TPA is to achieving our trade priorities. Is TPA absolutely necessary to, say, regain our leadership in trade?

Ambassador ZOELLICK. Well, Senator, I wish I had a dollar for every time the topic came up with foreigners. I am always a little careful about this, because I feel that we have our own constitutional system and we will take care of it. So, I do not really feel it is, on the one hand, their role to tell us how to do anything. But the reality is, it will be critical to going forward.

One of the reasons I started out the way I did, Senator is working with the Congress I think we have regained a lot of momentum. We got the global round going. We got the Free Trade Area of the Americas going. We got China and Taiwan in. We have got bilateral agreements going.

But now the question is, can we keep up the momentum? That is absolutely critical because these negotiations are moving forward. The process, while people see a deadline of 2005, there is a lot of work to be done along the way.

My colleague, Commissioner Lami noted, without trying to put any pressure on, if the United States does not have this authority, people are just going to start to slow down. They are going to start to question the overall commitment.

So we have an opportunity here to make a tremendous difference in the world. Again, I compliment this committee with an 18:3 vote, but we now need to finish the work.

Senator MURKOWSKI. That is all. Thank you.

Thank you, Mr. Ambassador.

The CHAIRMAN. Senator Hatch?

OPENING STATEMENT OF HON. ORRIN G. HATCH, A. U.S. SENATOR FROM UTAH

Senator HATCH. Thank you, Mr. Chairman. I am sorry that my duties on the Judiciary Committee today make it impossible for me to attend the entire trade hearing today.

But I, first, want to commend you, Mr. Chairman, for being good to your word and calling up the trade promotion authority legislation right after the House acted in December. I look forward to

working with my colleagues to attempt to continue to forge a bipartisan consensus on trade issues.

In his State of the Union speech, President Bush called upon the Congress to get the job done on TPA. The President was correct, it is in the interest of the American people for Congress to pass fast track legislation so that new markets can be opened for the products made and services provided by American workers.

I want to again commend my colleagues across the aisle on this committee for contributing to the wide 18 to 3 vote in favor of TPA. I call upon the Chairman and Senator Daschle to schedule debate and a vote on TPA before the Easter recess. I am certain Senators Lott, Nickles, and Grassley will work with you on that matter.

I also favor trade adjustment assistance legislation so that workers displaced by the inevitable aftermath of competition and trade can receive temporary assistance and valuable retraining.

That is not to say that I favor a $12 billion TAA bill with inclusion of COBRA benefits and expansion of coverage for so-called secondary workers. But I am absolutely confident that the Senate, House and administration can reach broad bipartisan agreement on TAA.

Let us not get bogged down on what comes first, TAA or TPA. Let us get them both done, tied together, or moving separately in any order. The reality is, both of these pieces of legislation will likely pass, or both will likely fail.

If we fail, in my opinion the American public will be the losers. I am glad to see that Ambassador Zoellick is with us today. Some of my colleagues did miss you in December. You may have heard that my friend from West Virginia was particularly saddened by your absence.

While I will not ask you whether you are wearing a flak jacket today, I will say that I share many of Senator Rockefeller's concerns about the plight of the steel industry.

In our hearing yesterday, I asked Secretary O'Neill to comment on the importance of our domestic steel industry to our national security, and to tell us of his contributions in addressing the underlying issue of global over-capacity of steel. We do need your personal leadership on steel. I know that is a headache, but we do need it.

I have a lot of faith in our USTR and the administration's International Trade team. Leaders like Secretary Evans and Grant Aldonis are moving the ball forward as well.

I think that Ambassador Zoellick's testimony does a very good job of cataloguing our successes of last year, and he has laid out the challenges that we face in the future.

Launching a new round of trade negotiations is a worthwhile endeavor. Chances of American success for the new round will be enhanced if our trading partners can see that the American people, Congress, and the President are fundamentally together on these issues.

Now, nothing can send this signal stronger than enactment of TPA legislation. So, just one question, Ambassador Zoellick. What is the administration's view on the chicken-or-the-egg question of what comes first, TPA or TAA?

Ambassador ZOELLICK. Well, Senator, as I mentioned to Chairman Baucus, I share your view and his view about the importance of trade adjustment assistance, and the administration does, as a whole.

In terms of the procedural issues and procedural link, that is something, obviously, we defer to Congress. Like you, we want to get both done. In December, actually, Chief of Staff Secretary Card, actually wrote a letter on the House side, but I am sure that you have also seen it, talking about a lot of the areas where there is common ground to be worked through here. I know that my colleagues at the Department of Labor have had some good discussions on a number of these items.

Frankly, having looked through some of this agenda myself, I do think that not only are there points where, at least I understand it, we have already reached agreement, but there are many others where there is room here that can kind of be worked out.

Now, there are some other topics that have gotten hooked up with larger entitlements, stimulus issues, and other issues that are not within my bailiwick. But anything I can do to help get this done, I will be pleased to do so.

There is one other point that I think all three of you have mentioned that I just want to underscore why TPA is important. We benefit from the structure and guidance of the Congress. We cannot go very far in this unless we really have your objectives and your procedures.

Frankly, it has been very helpful to look at the House-passed bill and Senate Finance Committee bill as we are trying to move forward and finish Chile and Singapore, because at least I have a pretty good sense of the targets. But there are also a series of procedures that will be in this bill that we think are appropriate and useful to put forward.

So, in a sense, one of the other parts of the problem is that if we do not get TPA done, we do not have that structure to engage in the way that I think this committee most of all, and historically, has engaged.

So we want to try to get it done as soon as we can. I was very pleased, as I am sure all of you were, to see the Majority Leader talk about trying to get this up soon. If TAA is the key item, again, I am happy to work with my colleagues in the administration. If there are any particularly difficult issues, let us try to get it done.

Senator HATCH. Thank you. I attended the World Economic Forum last weekend, as you know. Many attendees, including Secretary O'Neill and my fellow composer Bonna, his CDs sell millions, mine sell hundreds. Actually, thousands.

Ambassador ZOELLICK. We will put a real focus on intellectual property.

Senator HATCH. I would like to see you do more to enhance the sale of inspirational, patriotic, love songs, country CDs while erstwhile members of Congress. [Laughter.]

But concerns were raised about the AIDS epidemic that rages across sub-Saharan Africa and is spreading at alarming rates in other portions of the developing world.

I have been very interested from the beginning when Bonna first came to me and asked for help, and I gave it. I think other mem-

bers of this committee, such as Senator Kerry, are very interested in this. I think all members are.

As you know, the epidemics of AIDS, malaria, and TB raise many complicated challenges that literally swamp the available local resources in many nations.

One problem, is access to drugs. The harsh fact is, even if we set the price at the cost of production, those medications would still be beyond the $1 a day GDP of many of these countries.

Frankly, it is hard to see how we can ever turn around the corner unless we get vaccines. If you think the anthrax attacks have exposed the fundamental weaknesses in the public health infrastructure of our country, imagine what the public health capacity is like in the poorest nations of this world.

It is just not public health capacity or drug prices. As in our country, complicated social attitudes toward sexual behavior also play a role. Unfortunately, so does plain ignorance.

In this respect, I would note that the government of South Africa has an absolutely dismal record on AIDS information and its policies on drugs like Navarapine. Although I understand the motivation between the Clinton administration executive order and the Doha language on AIDS drugs, I am leery that if these policies play out in the real world, they may have unanticipated consequences in the long run.

Now, I agree with your testimony that "it would be a tragedy and health setback if the promotion of the flexibilities within the TRIPS accord degraded into an assault on intellectual property." I agree with that. So, I am all for flexibility when it comes to AIDS, malaria, and TB in the developing world. I am just afraid that sometimes one man's flexibility might be perceived as taking of another's property.

Now, I just hope that all of this flexibility in the short run does not have the practical effect of disinvestment in the vital research that could delay the development of vaccines and more efficacious treatments in the long run.

As you know, we had some criticism by especially the EU, as we usually do at the World Economic Forum, and others, certainly from the lesser developed countries, that we do no do enough. I remember one comment about us having less than one percent foreign aid.

Well, I think of the hundreds of billions of dollars this country is spending on keeping the world free from weapons of mass destruction, of keeping us peaceful in many areas of the world, the millions and millions of dollars that we put into the U.N. and its affiliated agencies, the billions and billions of dollars in that, the billions of dollars in pharmaceutical research and other technical and scientific research that has benefitted the world. It is a lot more than just a little less than one percent.

You go on and on about what the United States does and the burdens that we carry. I want to help solve these problems in sub-Sahara Africa and elsewhere on this globe where we need to solve them in the interests of the whole world, not just those people in that area.

I guess my question is, how will we know if we are reaching the point when this flexibility might reach the point of degradation?

Ambassador ZOELLICK. Well, Senator, I know you have had a longstanding interest in this because I remember we have had a chance to talk about this on other occasions.

I agree with you, it is absolutely critical to try to get it right, for both the trade system and for the health system. A point I noted in my testimony is that it is absolutely vital that our trade system and trade policy be in line with our value system. If it is not, trade will lose.

The issue that this presents itself is, in part, something we try to deal with from the start of the administration, which is, can we take the flexibilities that are already in the intellectual property regime and help deal with these extraordinary situations of pandemics, health crises, and others?

My view, to be honest, Senator, is if we did not, the intellectual property regime would get overrun. So what I talked about actually with some of the leaders in the industry, people like Ray Gilmartin of Merck and the people from Pharmacia, is how do we use these flexibilities, like the compulsory licensing provisions, in the context of crises to make sure that, if you are in an African country, that you will abide by intellectual property rules, but you have this escape valve in these extraordinary circumstances.

That is what the political declaration at Doha was all about doing. As you mentioned, and I think this is vital, if this slips to a general assault on intellectual property, everybody will be the loser.

When I have talked with some of those CEOs, I am struck by the potential to even develop a vaccine for AIDS. Yet, if we do not protect intellectual property, people will not put the money in investment to try to do that. This is also an area of biotechnology, which a number of you with agricultural interests find, obviously, is very, very critical.

The last point about this, Senator, is that while the cost of the drugs is obviously a piece of the problem, I think the pharmaceutical companies, while they might have started a little slow, have done a very good job of trying to get ahead of the curve in terms of providing these drugs at low cost, at no cost, or for free. The key part is, it is not just the cost of drugs.

In developing countries, it is also the delivery system, the prevention system, whole aspects of how you provide these medicines and how you avoid having the problems start in the first place.

If we do not get ahold of this problem in a continent like Africa, it will have huge social and economic consequences. It does today, but it will in the future. In some of these countries, 25 to 30 percent of the public is already infected. If we cannot deal, for example, with the mothers that are having babies and passing this along, it is going to be a cataclysm for 750, 800 million people.

So we do need to get this balanced. I think what we tried to do at Doha, Senator, was to recognize the intellectual property rules we all agreed to have the flexibilities. Let us use those flexibilities while preserving the recognition that we have to protect intellectual property if we are going to get the benefits in the future.

Senator HATCH. I could not agree more. I think you have done a terrific job, under the circumstances. I just want to compliment

you personally. I know what a tough job you have. I do not think we could be better represented in this country than by you.

You understand the balances that have to be made and the incentives that have to be there in order to find these live-preserving drugs. But, yet, we have got to do more. I am certainly going to push to do more in this country to help some of these very, very poverty-stricken nations. Like you say, 30, 40 percent are now infected with AIDS and we have got to do something to help them.

But, thank you. I appreciate the hard work you have done.

The CHAIRMAN. Thank you, Senator. I also thank you, Mr. Ambassador, for your work in this area, too. It is of vital importance.

I have a couple of questions. One is softwood lumber, the other is wheat. They deal with lots of areas of our country. It has certainly helped in my State of Montana, but I am amazed at how much these issues are nationwide as well.

First, with respect to softwood lumber. It is my concern, frankly, that the U.S. Government is not being quite as forceful, involved, or maybe as aggressive as it should be. Let me say why.

I will not forget, many, many years ago this committee, when Russell Long was chairman, I remember him saying to the effect that we just need a much larger USTR, much more stuff.

All these other countries are so involved in trade and care so much about trade, they have large staffs and hire all these bright people. They out negotiate us. They are so tough and we do not care as much about trade.

Well, that has been changing over the years. But it is true that, to some degree, when we change administrations we change negotiators, we change personnel at some level, I think more so when compared with other countries.

I know the Canadians have a lot of people who spend their lives figuring out how to take care of Canadians. Now, my concern is that, on the softwood lumber negotiations, we as a country are not fully appreciating, and understanding, and trying to figure out how to deal with all of the multitude of complexities in the Canadian system with respect to softwood lumber.

My sense so far, in talking to the industry and negotiators, is we are a little too focused maybe on one component and not on all the components, because it is a zero-sum game. If you do not get it all right, there is going to be a big loophole.

The discussion this far has been pretty much on competitive pricing. That is, the degree to which and over what period of time Canada agrees to competitive pricing systems and pricing stumpage. That is well and good. It is certainly a necessary part of all of this.

However, I do not sense that our negotiators are focusing enough on some other components. One, is the tenure system. As you well know, the Canadian Provincial governments give contracts to companies who get tenure. It is like a professor, like a teacher. Not like Senators but in some other professions. They have a lock.

As you also know, there is not much of an antitrust body of law in Canada compared with the United States, so these companies conclude, and do.

Third, there has been mandated sales provisions in Canada. A certain number of board feet have to be harvested and sold, which

gets in the way. Then in addition to that, there are some other practices that have to be dealt with.

One, is the Canadian de jure and de facto provisions, which in effect make it difficult, if not impossible, to shut down. That is, you have got to stay producing. And all the circumvention issues that we face with the Canadians, like drilling holes in studs, for example, and things like that.

So I just am urging the USTR, and the administration generally, and those who are in discussions with Canada, to be much more cognizant of the complexities of the Canadian system and much more aware and knowledgeable of the degree to which the Canadians will go to try to find the way to run this thing.

Now, it is my hope that we can, once and for all, finally put this issue behind us. That is, the subsidies and unfair trade practices of Canada with respect to softwood lumber. I cannot tell you the number of people around the country who are just—devastated is a bit strong. But they are very, very concerned about this, just seeing what the Canadians are doing. We are next to Canada. We like Canadians. But we do not like this practice. I would just urge you to follow up on that.

The other, is the Canadian Wheat Board. We have commenced a 301, but it is just unfair. It is market-distorting for that Wheat Board to set prices. I just urge the administration to be more aggressive in pursuing that one, too.

I have dealt with Canadians a long time, and a lot of other countries a long, long time. I can tell you, no country altruistically, out of the goodness of its heart, is going to give up a trade barrier unless they are forced to, unless there is leverage. It is not going to happen. Sweet words do not do it, you have got to have leverage.

One leverage we have is the actions that we have commenced in both of these cases. The law is on our side. Facts are on our side. Fairness is on our side. I just urge you to be a little bit more aggressive.

Ambassador ZOELLICK. Well, Mr. Chairman, one of the good things about electing President Bush, was since I worked on this issue in the 1980s with Canada, it allowed the United States to bring in that experience, as you talked about, that the Canadians have.

But I think, in general, on softwood lumber, you and I are actually in very close agreement in that. As you know, we back the cases that were filed by the coalition, including, I personally—while it was a Commerce decision—suggested the critical circumstances finding, which was important along the way. It was the one that was appropriate. So, we now do have the preliminary countervailing duty and antidumping duties.

Like you, I think what distinguishes this period is this is the first time in 20 years we have a chance to go at the underlying practices. For example, in the 1980s we put on an export tax that lasted for a while.

I could not agree with you more. In fact, I think the whole key as we approach this is the interlocking and interrelated nature. I will not list them, but I had written down pretty much the same set that you talked about.

I think we cannot just look at the option, we have to look at the mandated requirements, the minimum pricing, and the whole pieces and how they fit together. Our clear objective—and I am not sure we can do this, and if we cannot get a good deal we will not do it—is to try to have an open and competitive market with Canada in this area.

That is what our lumber coalition has backed. We have been working with environmental groups, and I know you have had an interest in that because they believe that the poor economic practices undercut this. So, that is what we are trying to do.

What we face in this area, Mr. Chairman, is that, as you know, later in March the Commerce Department will make its final determination for these duties. That is a little bit of uncertainty here, because sometimes they change. We also face a WTO challenge, I am sure, from the Canadians on this. So, we have a period of time to work on this issue.

But one of the issues we have to work with together on this, is to try to see what arrangement you can come to, because you do run certain risks if you go forward without having done that deal.

But what I want you to have 100 percent assurance on, is that I am not just pursuing this for the sake of a deal. If we cannot get these types of terms, then I do not think we should try to do it. But the industry will then have to decide some of the risks that it runs.

In the case of the Wheat Board, I think we are having a chance to meet a little later this week. I actually have some ideas that I would like to try to suggest to you and your colleagues about what we might be able to try to pursue on this as sort of additional steps. So, like you, I feel we have pursued this 301 investigation. It has gotten certain information that has been useful. But this is a monopoly. It is not fair.

Now, there are certain rules that we have that we can be able to use, whether WTO or our own unfair trade practices laws, while we are also trying to negotiate these changes in the Doha agenda. But I frankly personally favor moving on multiple fronts and moving multiple barrels of the gun, so we can talk about that.

The CHAIRMAN. Yes. Perhaps in WTO.

Ambassador ZOELLICK. Well, that is definitely one. But I frankly, also, want to talk with industry about a possible antidumping/countervailing duty suit and talk to the people in North Dakota, because sometimes the other States have actually helped when you have had a group like farmers that have a little bit of a harder time financing this.

In the case of, I think, Louisiana and Florida, they actually helped do some of the financing for the group. We learned some things through this 301 investigation that might give a basis for some antidumping and countervailing duty actions.

So, frankly, Mr. Chairman, we can talk about this some more. I am actually trying to think: number one, pursue this as we are in the new negotiations; a possible WTO action, but the rules in this area are a little uncertain. We have to face that, but I think we can use it in a way that also helps the negotiations. But also, possibly, antidumping/countervailing duty. So, I do not think we should restrict it to one.

The CHAIRMAN. I appreciate that.

Before I turn it over to your good friend, Senator Rockefeller, I would like to have one more question. We have been talking about this issue two or three times during the day. That is, taking FISC to the WTO, the FISC solution.

There are a couple of approaches, obviously, to resolving the FISC matter. Some suggest reforming our tax law, others suggest—particularly myself—that we go to the Europeans and say, hey, let us find a WTO, broader solution to this issue to avoid a big battle between the United States and Europe, and because the tax solution just is not going to happen.

The United States is not going to change it tax laws broadly to address the question of rebates and what is permissible, what is not in terms of export stimulus and subsidies.

Your thoughts?

Ambassador ZOELLICK. Well, I certainly understood you made this point to Commissioner Lami very strongly, which is useful.

The CHAIRMAN. I did.

Ambassador ZOELLICK. The problem we are going to face on this, Mr. Chairman, is one of timing. We now, I think, have an extra month's reprieve for some technical reasons. But, by the end of April, there will be an arbitration panel in the WTO that will determine a retaliation amount that the EU can use. We are fighting to lower that amount. They have used a number that has drawn off the estimates of the tax revenues from the Congress of about $4 billion.

So, as of the end of April, they will be in a position to retaliate. I do not think the EU is eager to retaliate. They know, and I have tried to make the point, that this could start off a series of actions that could be destructive to the larger economic relationship.

The problem is, if they get a sense that the United States is just thumbing their nose on the decision and just sort of ignoring it, then there will be pressure to retaliate, not necessarily in full, but definitely in part.

So what I was trying to do with Commissioner Lami in our last meeting, was to try to say, look, as an administration, we will take this seriously. One thing we can try to do is create a type of internal task force. Obviously, this involves heavily the Treasury and tax policy, to come up with some recommendations within a certain definite period of time.

Second, we can also try to have a United States-European tax policy dialogue on this with some of the experts so that if we resolve this this time, it is resolved for good, and if necessary try to agree or try to do it in a Doha agenda to sort of try to finalize it.

But, third, there is going to be the Congressional dimension. This is where, as you and your colleagues decide what, if at all, you are going to consider on this in terms of hearings and others, it is important that we try to use this with the Europeans to show there is a serious consideration of the topic.

Otherwise, I think the reality is, Mr. Chairman, we are going to face retaliation. In my trade role, what I have been trying to do is to show our good faith response, but also make clear this is a huge problem. It is not going to be solved anywhere near overnight.

But if we engage as an administration, if the Congress engages on it, that should be reason for the Europeans to hold off retaliation. For how long, I cannot say. I do not know. But I think this is where, if we can, Mr. Chairman, we are going to have to work very closely with the tax policy experts and the Congress on this. Otherwise, we will face retaliation.

The one other option is compensation, Mr. Chairman, which would require, again, congressional action.

The CHAIRMAN. I hear you. But I will tell you, listening to the music as well as the words, I sense a little, from my perspective, too much emphasis on a tax solution. I think that is more difficult to attain that some might think in this Congress. That is, the number of years it is going to take for what some people are talking about.

I hear you say it is a question of timing with Ambassador Lami, and so forth, and the WTO. But I urge you to look for alternatives that do not put too much emphasis on a near-term or moderate-term tax solution because I do not think that is going to happen, so that we do avoid a collision or avoid a big brouhaha with Europe over this matter.

Ambassador ZOELLICK. Mr. Chairman, on this—and I apologize for following up—I want to make sure as we go forward, because this is going to be a tough issue, that there is not any question of ever misleading on this. I am going to try to do everything we can to hold this off. But the real problem is that we are now in a world where they either retaliate, we do compensation, which would require lowering tariffs, or we change the law. I cannot change that.

Now, what I can do and what I will try to do, is that I have certainly made the point, as you have, about how complex and extraordinary this is in terms of tax policy and how it would take a lot of time. No one can say for sure the result.

But all I am suggesting is, if Congress takes this issue on and starts to examine it, however this branch decides to do it, please work with me so I can use that to try to make the case for deferral of retaliation. I just cannot move the pieces on the board any other way.

The CHAIRMAN. I hear what you are saying. But I also ask you to go try to find another approach as well, because I think that other approaches probably will be more fruitful.

Ambassador ZOELLICK. I am certainly, with you and your staff, open to any suggestions.

The CHAIRMAN. Thank you.

Senator Rockefeller?

Senator ROCKEFELLER. Thank you, Mr. Chairman. I apologize, I was a little bit late.

Mr. Ambassador, I think you know by now my interest in steel is not either to embarrass you, the Bush administration, the Clinton administration. But it is profound because it involves tens of thousands, hundreds of thousands, when you include families' and retirees' lives.

You have been discussing with the Chairman agricultural matters. I always vote for agricultural bills which, in one way or another, we sort of manage to pay farmers not to grow crops with federal money.

It is interesting to me that we decline to do anything, from the Federal Government's point of view, to help what is sort of the pillar industry in this country. With that little opening, I want to ask you—and I am going to read the question because I want it to be done correctly.

It is just an honest question, because I respect you. You are a lawyer. You sit at these tables and tell us things and you know Doha practices, and all the rest of it, and trade law very well. In our parts of the country where we do steel, we have to depend entirely upon people like yourself, and the President, and our own efforts to try to allow people to keep putting food on the table.

In some cases, to put it rather dramatically because it has happened in the past, to avoid committing suicide because of loss of jobs when you are dealing with three or four generations of family within the same steel plant. It is unlike anything else in this country, really, except, I suppose, for farming and coal mining.

In any event, when this committee last met to discuss trade in December, I remarked how very disappointed I was that you had sat in my office, and you wrote me a very strong letter in opposition to what I am about to say, and told me that you would not do anything to weaken U.S. trade laws. That was very important to me.

It is really the only question I wanted to ask you. It is the only question I cared about. I did not have any question about your intelligence, your knowledge, your integrity, and all of the rest of it.

I did have a question about this because I had gone through the same experience with the previous administration, with whom I basically cut off relations because of steel. Steel is that important to West Virginia, to me, and, in my judgment, to a lot of our country.

Then you went off to the Doha ministerial and you agreed to put U.S. antidumping and countervailing duty laws back on the table. Now, I have a little precis of the previous conversation you had with Mr. Baucus and what you said. That was not the case. I understand that. But I am proceeding with my question because it is laid out, I think, effectively.

You were not at that Finance Committee mark-up, and you worked on that in your letter to me. I understand that. You sent me a letter protesting that, no, you had followed through on your commitment to me, and that you had not agreed to any weakening in U.S. trade laws.

Now, I think this committee would benefit from some straight talk on what was agreed to at Doha. Not the lawyers' language, but the logical implications.

The United States has been arguing for years that our existing trade laws should not be on the agenda of the new WTO round, as a history. Then you went to Doha. Suddenly, we agreed that "improvements" to our trade laws would be part of the package. It is a benign word, but perhaps not.

Technically, we have not agreed to anything that will change our trade laws yet, so you are right about that. I guess the lawyers can keep saying that until we sign the final agreement in three years' time. But we have agreed that such changes will be part of the final package of the new round. We have agreed to that.

So, realistically that means that we are not going to get what we want in agricultural, services, or market access unless we are prepared to pay with concessions on our trade laws.

None of these countries want us to strengthen our trade laws. They never have. So it seems self-evident that the only way that we are ever going to reach agreement on—I expand now the quote—"clarifications and improvements," is by weakening those trade laws.

Since this is the major U.S. concession in the new round, that means that the countries that do not want to open up their agricultural or services markets in Europe, Japan, Korea, India, and the like, have every incentive to ramp up their demands on U.S. antidumping laws to ensure that we pay a maximum price for any trade concessions that we might get and that you might seek from them.

So you can tell us that there will only be cosmetic changes, but the other WTO countries whose agreement will be necessary to complete the WTO round that you are devoted to have every incentive to insist on much more than fundamental changes.

Our trading partners characterize this as a major victory for them. Why would they do that? The media, those that support the Doha agreement as well as those who oppose the Doha agreement, have characterized this as a major U.S. concession.

Why would they do that? So I would like to ask you two things. Please bear in mind that you have in front of you—well, no Senators at all except for myself, who want to believe, who want to be helpful, and want to see all of this work, and who do understand what globalization means, and who have taken it on in their States.

I would like to ask you, did you make agreements in Doha that will likely lead to weakening U.S. trade law, number one? Number two, are you prepared to walk away from the new WTO negotiations if other WTO members insist on changes that would weaken the integrity of our antidumping laws?

Ambassador ZOELLICK. All right. Well, let me start again, Senator, as you and I have discussed and as I mentioned to the Chairman. I think effective trade remedy laws are critical. We have used them and we have used them in the area of steel where others did not use them, as you know. And as you and I have discussed, I was a key participant in moving on that path. So, I think the bona fides have been established here.

Senator ROCKEFELLER. Are you referring to 201?

Ambassador ZOELLICK. Yes.

Senator ROCKEFELLER. No. But, you see, we can all talk about that. We can all say who did what, who talked to who, and how that came about. That is not the question I am talking about.

Ambassador ZOELLICK. Well, it is part of the answer I am giving, Senator, because it is part of the laws that we use to try to safeguard our industries. This is an area, particularly, as you emphasized, steel being the heart of your concerns, and this 201 goes to steel.

Senator ROCKEFELLER. Well, then excuse me, but I need to interrupt and say that it is going to be too late to do any of this unless the President does come up with a remedy.

Ambassador ZOELLICK. We are working on trying to come up with a remedy.

Senator ROCKEFELLER. I know. Everybody is always working on this, but nothing ever works for the steel industry.

Ambassador ZOELLICK. And, in addition, as I mentioned to the Chairman, there are a number of other areas where we have supported the use of these laws, including softwood lumber, and as I just suggested here, the possibility of dealing with Canadian wheat. So we are comfortable and believe these laws are important to be used, need to be used, and we will use them.

Second, as you properly identified, we did not negotiate any changes to these laws, much less agree to any changes in these laws. You have the text. I am sure your staff has the text of what we did agree to.

Here is where I honestly think your analysis of the international situation may be a little off, Senator. A number of these other countries are now developing similar laws and we are finding them being used increasingly against American exporters. I touched on some of that in our letter.

I do believe it is possible to develop coalitions with a number of these other countries in terms of the importance of these laws and to try to support and protect them, and stop any adjustment of them that we do not like.

There are some areas where we would like some adjustment, and I talked about some of those in the letter, not the least of which are some of the use of developing countries of these laws against us.

Senator Lincoln and I talked about the misuse of these, when she was last here, about poultry. I am trying to work to fix that problem with South Africa.

I mentioned to Chairman Baucus a number of decisions that we think were poorly done by WTO panels. The key issue, is deference to our decision makers, the ITC and the Commerce, which we do not think WTO panels have accorded enough of.

So, there are areas of clarification and improvement that we believe will help U.S. exporters without undermining our use and ability to use these laws in a protective fashion, which I have agreed and I support their use.

As I said to the Chairman before you came in, I imagine, like you do, that if we do not have effective trade remedy laws, we are not going to be able to maintain support for trade in this country. So, it is a key component of the package of what we have going forward.

So, as you can see, what we tried to do with that language—and you are right, in this case, in the framing of it, there were 141 countries that wanted something included on that and we were the one that was the outlier. So, we fought.

As I think I explained to you in the letter, I personally fought and went to a number of countries, the chairman of the group in South Africa, the Koreans, the Japanese, the Chileans, to insist that we not only include the language that protected the effectiveness of the concepts and the agreements, but also the instruments that we use, the core instruments and objectives that we include.

That language would not have been put in, Senator, if I had not gone and pressed personally and insisted that this had to be part of the component of what we have going forward.

So these are laws that we are going to see. Interestingly enough, they are increasing being used not only against our agricultural producers, but most of the 60-odd orders against the United States are against some of our metal producers, and some of our chemical producers, and some of our basic industry producers.

So, as you say, Senator, we are part of an international system. We need to try to make sure that these are not used unfairly against us and that we protect our fair use. That is what I am committed to try to do.

Senator ROCKEFELLER. That is your answer?

Ambassador ZOELLICK. That is an answer. Yes, that is my answer.

Senator ROCKEFELLER. All right.

If you put on the table, and you are the only one of 141 or 142 countries that so do, clarifications and improvements of antidumping laws, then you say you go to the Chileans, the Koreans, others and you have talked very strongly to them, but there is nothing in writing. There is no agreement.

But the language is now on the agenda, clarifications and improvements. So where is your leverage other than your voice? I mean, it is you versus all these other countries that do not want to open up their access or to diminish their exports. You give them something which they want. You give them leverage. I do not see where you have extracted any leverage at all from them, except some conversations that you had.

Ambassador ZOELLICK. Senator, perhaps I did not state it explicitly. Some of the language that is in that statement, which creates the context for our further work, is the written language that I insisted on, including the use of the word "instruments," plus much of the other language came from us in terms of the offensive agenda and preserving the concepts and the effectiveness of the agreements. So, first, it is written down.

The second, is that there are countries who will increasingly support the use of antidumping and countervailing duty laws with us. So in that sense, and this is where the economic and international system is always changing, one of the questions that we will face as a country—but this is one of the reasons why the letters I get represent a diversity of views from you and your colleagues on this—is that we can form alliances with countries that do not want any change whatsoever in these laws. Any change.

The price might very well be that many American exporters, and some of the people on this committee on both sides of the aisle, will be extremely frustrated. That is one of the things that we will have to consult with you, is how we proceed and how we try to form the coalitions.

It is my goal, Senator, to try to pursue a negotiation that promotes the interests of American exporters, because I think many of the developing countries are not using these laws in the way that we use them. I think they need to move up to a level playing field with us and to preserve and protect the effectiveness and the use of our laws.

Now, there are other aspects of this even related to us, as I alluded to. There are decisions, frankly—some of them involving other countries—made by the WTO, that will hurt the United States.

For example, how they calculate a net value. In other words, whether they take, as they calculate the dumping, whether they put a positive as well as the negative to have some net numbers.

We believe that was read into the rules inappropriately. It was not in a case that involved the United States, but it will hurt the United States as we try to use those laws. So, that is the type of issue that we would like to try to get changed.

Senator ROCKEFELLER. That is all well and good. I will come back to my question. If antidumping is weakened in this negotiation, will you pull us out of it?

Ambassador ZOELLICK. Senator, you certainly can understand, weakened in which way? If it is weakened in a way that helps American exporters but does not hurt American importers——

Senator ROCKEFELLER. That is the classic argument that people always come back with. You are being the senior Senator from Texas as you answer that.

Ambassador ZOELLICK. I am not sure he would be pleased with that attribution.

Senator ROCKEFELLER. Ronald Reagan did this with the Japanese and semiconductors. It surely was a different context, and we were swamped. You say, well, other people will be displeased because, as Senator Gramm would say, the prices will go up, or somebody else will say our exports will be threatened, they will retaliate. Retaliation is constantly used as an argument. I heard it from Charlene Barshefsky, I hear it from you.

I am trying to protect steel and, like it or not, preserve steel. I do not want to use the word "protect," so that you cannot use that against me, but the word "preserve."

Like it or not, that is what I am focused on. I am not focused on other things. I have a right not to be focused on other things because that is where our State rises or falls.

So, if you allow antidumping laws to be on the table and changed, and it affects steel, why should I trust you when you came to me and said you would not allow antidumping laws to be weakened, when you now say that in the context of lots of processes, exports, services, and other kinds of things, that sometimes you have to make adjustments to these sorts?

Ambassador ZOELLICK. Senator, you can disagree with me, but I have done absolutely nothing—and I repeat that, absolutely nothing—to lead to a point of distrust.

In particular, as you said, your prime interest is in steel. I have done more than any USTR to try to help the steel industry, and am continuing to do so.

As we talk about negotiations that have been launched and have very general language as we proceed, and have a deadline of 2005, I have been working very heartily, and I know you have as well, on the near-term problems of the steel industry. That will ensure—and I will be happy to say preserve and protect, because we are trying to preserve and protect the steel industry. That is what safeguards are about.

So, you may disagree with me, Senator, and you may vote accordingly. That is certainly your prerogative. I know that the letters that I have received and the resolutions that I have received from the House and the Senate are ones that I carefully followed and that I held to. So, in terms of trust, that is my answer.

Senator ROCKEFELLER. Well, I am not satisfied with that answer, Mr. Chairman. I want that on the record.

The CHAIRMAN. You have the next round, if you wish to speak. Senator Lincoln?

OPENING STATEMENT OF HON. BLANCHE L. LINCOLN, A U.S. SENATOR FROM ARKANSAS

Senator LINCOLN. Thank you, Mr. Chairman. Certainly, thank you for your leadership in holding this very important hearing. We would like to thank Ambassador Zoellick for being here, and to all of the others that will testify, for taking the time to help us prepare for the upcoming negotiations in the WTO, and for some of the ongoing negotiations in other important areas such as the United States and Chile free trade agreement.

I do not want to take up too much time. I would like to just reiterate a couple of things, maybe, that have been spoken about, particularly TPA and TAA.

We have all noticed that the vote in the House on TPA was quite close. I think it was close, in large part, because there are large parts of our economy that have in some ways lost faith in our Nation's negotiations on their behalf in many places.

I take full responsibility for my share of that as well, because I do know that oftentimes that results in their concern for not only your department, but also for the U.S. Congress and what we are doing.

So I encourage us as we go forward with TPA. I believe it was indicated to me that you stated earlier that you also felt like TAA was something that we could move with TPA.

I think doing so and moving a trade adjustment assistance package would also do a great deal in rebuilding some of that faith that we need from the American public, as well as the American economy. So, I hope that we can do that and I hope that we can work with you in making that happen.

The other segment of the economy to which I have devoted a great deal of attention, is agriculture. You are well aware of that in my correspondence with you and on the issues that we have worked on. Our rural economy has been suffering.

A lot of it has been because farmers have been squeezed between low prices at home and very few open markets abroad, and we want to correct that. I hope that we can work through the concerns, as I mentioned earlier, in terms of the trust that both rural America and other parts of our economy have in our ability to make sure, or their general criticism may be perhaps that TPA is received from the heartland and from those groups in our economy, and recognize that U.S. agriculture needs to see dramatic improvement in the commitment of our trading partners. I hope we can press for that. I hope we can work together to see that happen.

I think it will certainly benefit not only the rural economy and our constituency in rural America, but I think it will benefit the overall economy of our Nation.

I would also like to comment on steel just a bit. That is to simply say that, as you look at the issue of steel and you have the opportunity to address the serious problems from which the steel industry is suffering, we hope and think it is very important that full and adequate Section 201 relief is granted to the steel industry.

I also particularly want to point out, from our perspective in Arkansas, that the pipe and tube industry often sees imports that otherwise might come in the form of flat-rolled imports.

So, it is very important that the duties that are attached to these two sectors are linked, that there is a connection, so that the importers of the flat-rolled steel do not simply switch to an increase in pipe and tube imports to take advantage of a disproportionately low duty in that sector.

So, I hope that we can keep that in mind as we go forward in terms of the steel talks. As you know, from my perspective in the State of Arkansas, we are all mini mills, but we have an awful lot of offshoot industries in the steel industry that are very important to us as well.

Again, just in closing, in terms of TAA as it relates really to the observations I have mentioned earlier in terms of trust, I hope that they will be linked. I hope you will help us encourage that in terms of bringing up TAA and TPA, because I do think it not only helps us move TPA, but I also think it will help us to build that trust out there with the individuals in the economy we are working with, as well as our individual constituents.

So, I appreciate that. Thank you for being here.

I know that we have got a vote shortly, Mr. Chairman. I will submit any further statement that I have for the record.

The CHAIRMAN. Thank you, Senator, very much.

Senator LINCOLN. Yes. Thank you.

The CHAIRMAN. I appreciate that very much.

Senator Snowe, do you have any questions?

Senator SNOWE. Yes, I do. Thank you, Mr. Chairman.

Welcome, Ambassador Zoellick. I am sorry I was not able to be here tomorrow. Constant conflict around here.

Several questions. One, of course, I know that you have addressed the issues concerning trade remedy laws and what was decided at the Doha ministerial. But I certainly want to reemphasize the fact that our antidumping and countervailing duty laws are critically important, particularly as we begin to address trade promotion authority.

I hope there is no notion that somehow these are going to be placed on the table, they are going to be renegotiated, undercut, or minimized in any way. I see that as the essence of being able to bring valid complaints with respect to unfair competition from abroad to our domestic industries. That is a way, I think, of leveling the playing fields. Those trade remedy laws have been very effective and essential in that regard.

Do you have any comments on that in terms of what you expect as a result of these having been placed on the agenda?

Ambassador ZOELLICK. Well, I think that the use of effective trade remedy laws is critical. This administration has used them. We talked earlier about some of the examples; obviously, in the area of softwood lumber, which is of particular interest to you. There are some other areas that we discussed today about their use.

We did not negotiate any changes in those laws, nor did we agree to. We fought very hard for a text that allows us to pursue some of the areas where these laws are being used against the United States in increasing numbers, interestingly enough, against steel, chemicals, agriculture, a whole series of industries, by countries that do not have the same standards and procedures that we do.

We also have the ability to go after some of the underlying problems that are the heart of why you have the trade remedy laws in the first place in terms of subsidies in antidumping, because it strikes me as totally inappropriate to have a discussion about the remedies unless you go after the nature of the disease.

We also believe we should attack the decisions of the WTO that have hurt our ability to use these laws. The text otherwise talks about the importance of the need to preserve the effectiveness of the concepts, principles, and indeed the instruments, that we have ourselves. So, we certainly recognize the importance of these laws, the need to use them, and the need to protect them.

Senator SNOWE. So you see it is more of an effort to focus on these laws of other countries as opposed to negotiating or making sure that these laws are non-negotiable? I would hope that we could dispel that notion that somehow there is this perception that that may be true, that these will be negotiated.

Ambassador ZOELLICK. I do believe that we need to clarify the misuse of other countries. I also think sometimes there have been some decisions of the WTO that have hurt our ability to use ours.

Senator SNOWE. Right. All right.

On the softwood lumber issue, as you know, Governor Roscoe was the special representative on this issue in working with Canada to hopefully try to expedite a consideration here.

What will happen now? I know there was a meeting that was canceled in December. Has anything evolved from those face-to-face meetings in having Governor Roscoe in that position? What is going to happen now? I know he is obviously in a new position with the RNC. So are they going to change that position at all, or has anything resulted from those meetings?

Ambassador ZOELLICK. The process, Senator, will continue. In other words, Governor Roscoe is working with my staff and the Commerce Department staff, so there is no fundamental change in the approach.

Where we are today, is we have the antidumping and countervailing duty remedies in place which we supported, on unfair trade law practice, about 31 percent. Those are preliminary. So, the Commerce Department will make a final decision on those in late March.

What we have been trying to do, and I talked about this a little bit with the Chairman, is the Canadians, for the first time in 20 years, have shown a willingness to go at some of the underlying practices that have created a lack of a market in Canada.

So what Governor Roscoe was doing, and now my staff and the Commerce people are doing, is to probe the Provinces and the central government in Ottawa, working with our lumber coalition and other groups like environmental groups, to see if we can have a series of interlocking changes to create a market. I would be happy to go through the details of those, but we will see if that is possible. I do not know whether it is.

Senator SNOWE. All right. Well, hopefully we can resolve it in a permanent way. I mean, obviously this is a very vital issue to my State and to industries. Obviously, if we can work through a permanent resolution, obviously that would be the best approach. But no matter what, it clearly is an unlevel playing field that has to be resolved.

Mr. Ambassador, one final question on fishing subsidies. As I understand it, what was agreed to was, fishing subsidies would be discussed, but there was no distinction made between conservation measures and excess fishing capacity. Our position was, at least in Seattle in 1999, that we would discuss fishing subsidies with respect to those that contribute to excess fishing capacity. Has our position changed?

Ambassador ZOELLICK. No. In fact, you will be pleased to know that I worked with the World Wildlife Fund on promoting this. Indeed, they and another environmental group put out some very complimentary releases, because this is the heart of an example of where bad economic policy is bad environmental policy.

So, the real problem here was getting the European Union, and to a certain degree Japan, to finally budge on this issue. It is an interesting example. Working with some of the NGOs, we got some of the member states in the European Union to also adjust. So, this is one that we are particularly pleased we were able to get accomplished.

Senator SNOWE. All right. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator Hatch, I think, has a question.

Senator HATCH. Senator Grassley asked me to ask you a question, Mr. Ambassador.

"As you know, I have been very concerned about the status of Mexico's new tax on U.S. supplies of high fructose corn syrup."

Senator Grassley has seen press reports from last week stating that "Mexico is considering modifying its tax to apply only to producers using imported or U.S. supplies of high fructose corn syrup."

Are you aware of those reports, and if so, what is your reaction?

Ambassador ZOELLICK. I am, Senator. To the best of my knowledge, they are inaccurate. But, since this is an issue that I know a number of farm State Senators have a strong interest in, let me just explain for a moment what we have done.

We believe that the Mexican action is illegal, it is protectionist, it is discriminatory. I have had three meetings with my Mexican counterpart, another with the Mexican foreign minister, to try to get this resolved.

My Mexican counterpart, Minister DeBez, frankly was decent enough to come up to the United States and meet with a lot of our

corn people, and high fructose corn people, to explain that the Fox administration opposes this and wants to get it reversed.

I talked with him as recently as this past weekend and he gave me a sense that they would be trying to do so in the near future. That report goes to the idea of how they would try to resolve it, and whether they would do it in a way that helped the producers of high fructose corn syrup in Mexico, but not the people who would be able to send it from the United States. The approach that the Fox administration has taken is non-discriminatory, which is what we have urged.

The CHAIRMAN. Thank you, Senator.

Before I turn to the next panel, Mr. Ambassador, I would just like to firm up a couple of points here. The commission that you are a member of that I referred to in my earlier statement recommended that TAA be extended to secondary workers. The vote on this in the commission was unanimous. You and Secretary Rumsfeld, Carla Hills, and others also recommended providing health care to TAA recipients. I assume that is your current view.

Ambassador ZOELLICK. Senator, I have gone back and looked at it since some of these references, the report had been raised to me. I often find, not surprisingly, there are various types of qualifying language on these issues.

But, I think here is the key point. I think there are various ideas—and I'm not an expert, Department of Labor is—about possible ways to deal with the secondary worker problem, whether using the Workforce Investment Act or other things. I think the administration is interested in doing that. I believe that Secretary Card's letter of December actually mentions this in some fashion.

On the health insurance issue, the administration has had a series of proposals dealing with refundable tax credits. There is another approach that has been used using the COBRA payments.

Again, I do not presume to be an expert on this, but, not surprisingly, the talking points that I have seen is that the COBRA payments actually cover a large number of other workers, people that would leave voluntarily. It also has the problem that it requires various changes in terms of business or State law, so it is not as immediately put into effect and it ends up being more costly.

So I think in terms of the thrust, there is an interest in trying to work on that issue. At least as I understand it, there is a different approach on how to do so.

But what I want to emphasize to you, Mr. Chairman, and this is a point that Senator Lincoln mentioned as well, I personally—even more significantly, the administration—believe that you need to have very good and improved trade adjustment assistance programs.

There are obviously going to be debates about how to try to do that, but I believe long before I took this job, and I believe now, that if you are going to have a transformational process in the economy, you have got to help people change. Frankly, it starts in the educational system.

The CHAIRMAN. Right. We are talking the mechanics of the procedures, and so forth. Of course, the devil is in the details. Still, I take it that you do think that TAA assistance also means cov-

ering secondary workers in health benefits, not getting into how it is done.

Ambassador ZOELLICK. The only point I am hesitant on, as you can imagine, I am not the Secretary of Labor, when you say TAA assistance, I think there are ideas of whether you do this with the workforce and secondary workers——

The CHAIRMAN. I said to help the secondary workers. Secondary workers.

Ambassador ZOELLICK. I believe there is an administration position, through the Secretary, through the Chief of Staff's letter, saying they are willing to try to work to try to cover this.

The CHAIRMAN. Well, to get fast track we need significant, meaningful trade adjustment assistance. It is that simple.

Ambassador ZOELLICK. Mr. Chairman, again, this is not my direct area, but since I agree with you, if I can help, if it is ever stuck in the process, just give me a call and I will try to do what I can.

The CHAIRMAN. You have got it. All right.

Well, thank you very much, Mr. Ambassador. You have been very helpful. We will have many more hearings like this, but I think this has been a good, solid, constructive hearing. It very much helps all concerned.

Ambassador ZOELLICK. Thank you.

The CHAIRMAN. Thank you.

We now have a panel which consists of Ms. Barb Determan, president of the National Pork Producers Council; Mr. George Scalise, president of the Semiconductor Industry Association; Mr. Gary Broyles, president, National Association of Wheatgrowers; and Mr. Arthur Wainwright, chairman and CEO of Wainwright Industries, and chairman of the National Association of Manufacturers.

Thank you all very much for coming. It is good to see familiar faces, as well as some new ones.

Ms. Determan, why do you not begin? As you might expect, your full statement will be included in the record. We have a five-minute rule. That is usually honored. Thank you.

STATEMENT OF BARB DETERMAN, PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL, EARLY, IA

Ms. DETERMAN. Thank you, Mr. Chairman.

I am Barb Determan.

The CHAIRMAN. I am sorry I mispronounced your name.

Ms. DETERMAN. That is fine. I am an independent family pork producer from Iowa. I also grow corn and soybeans on my farm. I am currently president of the National Pork Producers Council.

NPPC continues to chair the Agricultural Coalition for Trade Promotion Authority. We and our colleagues in U.S. agriculture appreciate the strong vote of this committee in passing a bipartisan TPA legislation, and we look forward to a speedy and successful Senate vote on TPA.

I also appreciate the tireless efforts of Ambassador Zoellick and our trade negotiators. I strongly believe that the future of the U.S. pork industry, and the future livelihood of my family's operation, depend in large part on further trade agreements and continued trade expansion.

Since 1995 when the Uruguay Round agreement went into effect, U.S. pork exports to the world have doubled. Pork exports from the U.S. to Mexico exploded when NAFTA went into effect. Mexico is now the U.S. pork industry's second-largest and fastest-growing export market.

As benefits to the pork industry from the Uruguay Round and NAFTA begin to diminish, the importance of additional trade agreements becomes paramount. While U.S. pork producers support bilateral and regional trade initiatives, clearly the most important trade initiative in the offing is a new WTO agreement.

This is because global tariffs on pork average close to 100 percent. Even in Japan, our largest export market, U.S. pork exports are severely limited due to a gate price system and safeguards designed to protect Japanese producers.

U.S. pork import tariffs, which are zero on many products, are among the lowest in the world. Moreover, the U.S. pork industry, which is not eligible for export subsidies and receives virtually no domestic support, must complete globally with subsidized pork from the European Union and other countries.

U.S. pork producers, therefore, are aggressively pursuing in the WTO negotiations a zero-for-zero initiative. Under this initiative, countries would totally eliminate, in the shortest time frame possible, all tariffs, all export subsidies, and all trade-distorting domestic subsidies for pork and pork products.

In late 1999, Mr. Chairman, yourself and Senator Grassley initiated a letter to then Trade Ambassador Charlene Barshefsky endorsing this initiative. Twenty-five other Senators, including many who are on this committee, signed that letter.

The pork industries of Canada and the United States continued to work with their respective governments to gain support on a zero-for-zero initiative for pork in the WTO agriculture negotiations.

Recently, the pork producers from Mexico agreed in principle to support this initiative. The Brazilian pork producers are expected soon to endorse this initiative also.

While pork producers urge the administration to make WTO trade negotiations the top U.S. trade priority, pork producers also support U.S. efforts to negotiate regional and bilateral trade agreements wherever feasible.

Like most other sectors of U.S. agriculture, the pork industry believes that FTA with Chile will serve as an important precedent for future trade agreements. A strong agreement with Chile will not only set the tone for future negotiations with other trading partners, but will help coalesce support for trade among farmers and ranchers throughout this country.

Among other things, FTA with Chile that does not contain an agreement that would permit any USDA-approved facility to export meat into Chile would be considered unacceptable. Zero tariffs, absent meaningful market access, means nothing.

As we look around the globe, Japan is the number-one choice of the U.S. pork industry for bilateral FTA with United States. But we understand that there is opposition among Japan's agricultural producers and that the FTA negotiations with Japan may not be possible at the present time.

The U.S. pork industry supports the negotiation of a Central America free trade agreement, as announced by President Bush on January 16. The pork industry looks forward to working with the U.S. Government to rapidly bring tariffs on pork in the region to zero and resolve other meat trade issues.

At this time, the U.S. pork industry cannot support an FTA with Australia. Australia has a zero tariff on imported pork, but has a de facto ban on U.S. pork by virtue of a number of sanitary barriers.

Denmark and Canada, our top two global competitors, are shipping pork to Australia. The only difference in the swine health status between the U.S., Canada, and Denmark, is that Canada and Denmark are Pseudo Rabies Virus-free, which is PRV. The U.S. is now in the beginning of eradicating PRV. There are no known infections in the United States at this time.

At any rate, the recently adopted OIE code chapter on PRV does not include pork meat in the list of commodities to be considered a risk. The United States has shipped pork to Canada and other PRV-free countries when PRV infection rates were still high in the U.S. because there is simply no significant risk of spread of PRV to domestic livestock from imported meat.

This concludes my statement. I appreciate the opportunity to come visit with you.

The CHAIRMAN. Well, thank you, Ms. Determan. That was very informative. I know that Senator Grassley deeply regrets his inability to be here to not only introduce you, but listen to you, and probably engage in some questions with you. But I appreciate it very much.

[The prepared statement of Ms. Determan appears in the appendix.]

The CHAIRMAN. Mr. Scalise?

STATEMENT OF GEORGE SCALISE, PRESIDENT, SEMICONDUCTOR INDUSTRY ASSOCIATION, SAN JOSE, CA

Mr. SCALISE. Thank you, Mr. Chairman and members of the committee.

I am George Scalise, president of the Semiconductor Industry Association. The SIA represents over 90 percent of the American semiconductor industry. One of the major contributions that I want to point out, is this industry is one that reduces its prices, on average, 30 percent per year.

As a consequence, the consumer benefits greatly, in consumer products, automobiles, information technology products, and a whole host of other areas. As a consequence, we are helping to drive this economy forward as we continue to bring out new and innovative products.

The huge investment our companies have made in technology and manufacturing capabilities has truly paid off. Today we enjoy a worldwide market share in this industry of 51 percent. More than half of our members' revenues are derived from international markets. That is going to continue to grow as we go forward, in particular, as China becomes a major player both as a competitor and as a marketplace.

As a result of eliminating barriers to trade and further opening worldwide markets, it is vital that our industry continues to have the benefits of current trade laws.

The SIA has a long history of support for trade liberalization initiatives. We will work to gain support for TPA and we commend the members of this panel for voting for passage of that legislation last year, and we hope that the full Senate will follow before too long.

We will continue to support market opening initiatives, including the new round of WTO negotiations, which promises to further open markets under a rules-based system. While this progress is very important, it is equally vital that we not lose ground in the area of trade laws, while lowering tariff barriers.

The antidumping remedy is especially important for the semiconductor industry, given the history of dumping in this sector in the past. I had firsthand experience with this issue and can tell you that, without the antidumping laws, America would not have the competitive semiconductor industry that it has today.

In the mid-1980s, Japanese dumping drove 9 of 11 U.S. DRAM producers out of this segment of the market. Our worldwide markets share dipped below 40 percent during that period.

Today, the United States is the home of only one DRAM manufacturer, but it is now the second-largest in the world. It is also, perhaps, the most competitive DRAM manufacturer in the world. Without the dumping laws, this very competitive company could not have done what they have done over the past several years, and in all probability would have been driven out of this business.

The antidumping laws ensure that fair competition is possible. No one can take an objective look at the world's semiconductor market today and not conclude that there is a vibrant, competitive industry that benefits consumers here at home and around the world.

This is a direct result of open competition and avoiding the destruction caused by unfair dumping. The WTO's current antidumping rules support an environment where success is determined by which companies have the best products, technology, and manufacturing capabilities, and not who is able to sell below cost of production to gain market share through predatory practices.

Antidumping laws that allow us to compete on the basis of market principles are just as important now as they were in the 1980s. Sixty-three members of the Senate sent a letter to the President before the Doha ministerial stating that antidumping laws must not be weakened in the new round, and we certainly concur with that.

All of the current proposals for revising the antidumping agreement call for significantly weakening the law. Such changes threaten to undermine the consensus in favor of market liberalization, and I believe they could undermine support for the WTO. We would certainly like to have that not happen.

The Doha declaration states that members agree to negotiations aimed at clarifying and improving the WTO agreement on antidumping, but that any negotiations will preserve the agreement's basic concepts, principles, and effectiveness, and its instruments and objectives. We must make sure that these principles, instru-

ments, and objectives are, in fact, fully preserved, as has been stated earlier in this discussion.

The declaration also calls for negotiations to cut tariffs on non-agricultural goods, especially those of interest to developing countries. While this is promising, the document calls for less than full reciprocity for the developing countries. We think this is inconsistent with the so-called zero-for-zero negotiations to eliminate tariffs in certain sectors.

We would also like to see the information technology agreement implemented on a broad range of IT products. This was not specifically mentioned in the Doha declaration.

We have some concerns about competition policy. Competition policy would make successful firms vulnerable to attacks on the basis of alleged abuse of dominant position. They could also be used to protect and promote domestic industries. So, competition policy could easily become a vehicle for protection of home markets.

The SIA is very interested in the area of electronic commerce as well. The declaration recognizes the new challenges and opportunities for trade brought about by e-commerce, and notes the importance of creating and maintaining an environment that favors the future development of e-commerce.

The U.S. negotiators in Doha want a continuation on the moratorium on Customs duties through 2003. SIA hopes this ban will become permanent.

We also support the development of rules that breed competition and growth in this area, including an agreement to ensure that electronically delivered goods receive no less favorable treatment than similar products delivered in physical form, the principle of a good is a good no matter how it is transformed and sold. The classification should ensure the most liberal treatment possible in preserving these principles.

Finally, we would like to have and support fair trade that has been the past principles and has been the past practices for the last many years since we have had to deal with some of these issues in the 1980s.

For the right results, I am confident that Congress will approve the new agreements, and the strong majorities that once characterized passage of trade agreements will once again be in support of this arrangement.

Thank you for your attention.

The CHAIRMAN. Thank you very much, Mr. Scalise. We appreciate it very much.

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

The CHAIRMAN. Next on the list, is Mr. Arthur Wainwright, who is chairman and CEO of Wainwright Industries, and as I understand it, the new chairman of the National Association of Manufacturers.

STATEMENT OF ARTHUR D. WAINWRIGHT, CHAIRMAN AND CEO OF WAINWRIGHT INDUSTRIES, INC., AND CHAIRMAN OF THE NATIONAL ASSOCIATION OF MANUFACTURERS, SAINT PETERS, MI

Mr. WAINWRIGHT. Yes, sir, Mr. Chairman. Thank you very much.

The CHAIRMAN. It is an honor to have you here. Thank you very much, Mr. Wainwright.

Mr. WAINWRIGHT. Thank you. I am pleased to be here to appear as the chairman of the National Association of Manufacturers. Of course, we represent 14,000 manufacturing firms. Ten thousand of those are small- and medium-sized manufacturers such as myself.

I have a few prepared statements for the record, and brief remarks to make at this time, sir.

Manufacturers have a vital stake in the ongoing trade negotiations. Nearly 90 percent of U.S. merchandise exports are manufactured goods, and 1 in every 5 American factory workers owes his or her jobs to these exports. We face two very serious trade problems, sir.

First, the excessively strong dollar. It has appreciated 30 percent since 1997, and has severely hampered U.S. firms in world markets as well as at home. Reflecting the over-valuation, manufacturing goods exports have fallen $115 billion in the last year and a half, severely worsening our manufacturing recession.

Second, American manufacturers face a global playing field that is not level. We are one of the most open global markets, as you know. But in many parts of the world, particularly in the developing countries, we face very high barriers. This is why new trade negotiations are so important to our future growth and prosperity.

The first thing we need is effective trade promotion authority. This is vital if the United States is to play its rightful leadership role in trade negotiations and obtain good trade agreements.

We ask for quick action by the Senate. The bill reported out by your committee is exactly the type of legislation that can gather strong support for quick passage on both sides of the aisle.

In setting his trade priorities last year, NAM's board of directors urged a program of bilateral, regional, and multilateral negotiations. We are pleased that such a strategy is being implemented.

Let me begin by stressing the importance to manufacturers of the launch of the new WTO Doha trade round. While decades of successive trade rounds have dramatically reduced barriers among industrial countries, American manufacturers still face huge barriers in the developing world. This accounts for 40 percent of our exports.

To give you some idea of what we face, the U.S. tariffs on machinery average about 1.2 percent, while the official tariffs for these products in Southeast Asia average 20 percent, and in Latin America they are over 35 percent.

One of the most promising ways to redress this imbalance is to pursue sectorial trade liberalization along the lines of zero-for-zero negotiations in the Uruguay Round.

The principle would be to obtain agreement among the countries that account for the bulk of the world trade in an industry sector to completely remove these tariffs in that sector, and implement such agreements even before the end of the round.

The NAM has formed a zero-for-zero coalition to urge the United States to make this major objective in Geneva. The key to this success is involving enough developed countries. We believe this is possible, since the biggest barriers developing countries face are

not in the industrialized countries, but in other developing countries.

Let me briefly touch on just a few of the NAM's other Doha priorities. Certainly near the top, sir, is achieving an effective agreement to promote transparent government procurement practices.

We urge that the U.S. negotiators press for a discussion on a transparency in a government procurement agreement, and do it now rather than wait until 2003 to begin discussions.

Another priority, is to satisfactorily resolve the unfortunate appellate body ruling against the United States for Foreign Sales Corporation's tax exemptions. Some of the mutually agreeable resolutions must be found so that the issue does not threaten the broader U.S.-EU cooperation.

One option would be to utilize the Doha negotiation to revisit how the WTO treats different tax regimes. As we look to the future, American manufacturing will rely increasingly on its advanced technology in the protection of that technology.

In other words, on effective enforcement of intellectual property rights we must press our trading partners for full and timely implementation of the TRIPS, this agreement negotiated in the Uruguay Round.

We certainly encourage both developed and developing country governments to intensify efforts to address unmet health needs in the world's poorest countries. Such solutions, though, must not be sought through undesirable amendments to TRIPS.

With respect to other negotiations, the NAM is strongly supportive of moving the Free Trade Area of the Americas negotiation rapidly. It is imperative that these talks be concluded by early 2005.

As in other negotiations, we believe a principal focus in the FTAA must be on the removing of developing country tariffs on industrial goods as expeditiously and comprehensively as possible.

The CHAIRMAN. Mr. Wainwright, I apologize. There are two minutes remaining on a vote on the Senate floor. It is my job to vote.

Mr. WAINWRIGHT. Yes, sir.

The CHAIRMAN. Second, the light is red. But, more importantly, is the first point.

I will have to recess the committee. Senator Lincoln may be returning very shortly and she can pick up where you left off and give you extra time so you can complete your thought.

In the meantime, if she gets to our next panelist, Gary Broyles, I just want to tell everybody that Gary is from the State of Montana. He is president of the National Association of Wheatgrowers. He was president of the Montana Greengrowers for several years. He is a super advocate for wheat producers in our country.

But I apologize. I must leave, so the committee is temporarily in recess.

[Whereupon, at 12:08 p.m. the hearing was recessed to reconvene at 12:14 p.m.]

Senator LINCOLN. I call the hearing back to order.

I believe Mr. Wainwright was in the midst of his testimony.

Mr. WAINWRIGHT. Well, actually, I was about through, but I thought there might be a vote that might be really important.

Senator LINCOLN. Well, I certainly want you to feel welcome to add to the comments or finishing.

Mr. WAINWRIGHT. Thank you.

With respect to other negotiations, the NAM is strongly supportive of moving the Free Trade Area of the Americas negotiation rapidly. It is imperative that these talks be concluded by 2005.

As in other negotiations, we believe a principal focus in the FTAA must be on removing developing country tariffs on industrial goods as expeditiously and comprehensively as possible.

The NAM's estimate is that an effective FTAA would result in tripling of U.S. exports to Central and South America within a decade of the implementation. This would take today's $60 billion annual exports to $200 billion.

The NAM also looks forward to the conclusion of comprehensive world-class agreements with Chile and Singapore later this year.

We were hopeful that the disciplines, expanded access, and the forward-looking nature of these agreements would serve as precedent for additional agreements.

Thank you, Madam Chairman. I would be happy to answer any questions.

Senator LINCOLN. Thank you.

I believe, Mr. Broyles, are you the only one that has not testified yet?

Mr. BROYLES. Yes, I am.

Senator LINCOLN. Great. We would welcome your testimony now.

STATEMENT OF GARY BROYLES, PRESIDENT, NATIONAL ASSOCIATION OF WHEATGROWERS, RAPELJE, MT

Mr. BROYLES. Thank you. I daresay I feel like I know Senator Baucus well enough that I can go on record as saying that you are much better-looking than he is, and you make a great stand-in.

Senator LINCOLN. You are kind.

Mr. BROYLES. But it is my pleasure to be here. I speak today on behalf of the wheat industry. Today I represent, specifically, the National Association of Wheatgrowers, the Wheat Export Trade Education Committee, and the U.S. Wheat Associates. What I offer here is a brief summary of my submitted testimony.

My name is Gary Broyles. I am a wheat, barley, and cattle producer from Rapelje, Montana, and currently serve as the president of the National Association of Wheatgrowers.

American agriculture is a strong supporter of fast track, now know as trade promotion authority, and has awaited the recent launch of the World Trade Organization negotiations. If Congress passes TPA, we are hopeful for aggressive progress in the WTO, as well as negotiations for the Free Trade Area of the Americas.

We are also hopeful that the administration will implement a tariff rate quota against the Canadian Wheat Board as a result of the Section 301 case currently being weighed by the USTR.

This action will go a long way in changing the perception that trade is often not good for producers and that farmers often lose.

Let me, first, turn to the trade case against the Canadian Wheat Board. This case originated when the North Dakota Wheat Commission took the lead and filed a Section 301 petition, pursuant to the Trade Act of 1974.

The Section 301 case is now in its crucial final stage. We believe this case fits closely with the overall strategy of the U.S. wheat interest in ongoing trade and agricultural negotiations, and I thank you and other members of this committee for continued support in drawing the administration's attention to this important issue.

One of the wheat industry's priorities in the WTO negotiations is the elimination of state trading monopolies. It is also part of our formal petition and position submitted for the negotiations in both the WTO and the FTAA. We must ensure that this objective remains a high priority.

The perfect place to start working towards achieving this goal is the current 301 trade case against the Canadian Wheat Board. It provides the necessary proof, tools, and leverage to bring the Canadian Wheat Board and the Government of Canada to the negotiating table, forcing them to enter into serious discussions to reform the blatantly discriminatory practices of the board or face unilateral action under U.S. law for the damages and burden that they have placed on wheat producers.

This case is not an attack on Canadian wheat farmers. It is, however, verification of what farmers and many of you already have known or suspected to know about the Canadian Wheat Board's price undercutting and its negative impact on U.S. producers.

The Canadian Wheat Board's activities distort trade. Past failure to address this trade problem has undermined farmers' confidence in trade negotiations. It is only appropriate that producers expect a fix to the inequities of the Canada-United States Free Trade Agreement by addressing the trade-distorting practices of the Wheat Board.

A prompt resolve of this problem will facilitate success in future negotiations for free trade agreements and the next round of WTO negotiations.

We recommend that, in the long term, the export monopoly of the Canadian Wheat Board be eliminated, and in the short term a tariff rate quota be established against Canadian wheat. It is abundantly clear that the board is not going to alter its practices or policies without pressure.

Tariff rate quotas will be the leverage that the U.S. Government can use to bring Canada to the negotiating table. The elimination of monopolistic state trading entities is part of a list of long-term goals developed by the U.S. wheat industry before the WTO ministerial in Seattle. The industry's goals remain intact and we feel positive about the outcome of the most recent ministerial.

Since wheat is an export-dependent commodity, our options are limited to one. That is, to be fully engaged in the efforts to make world trade free and fair.

One important component in achieving our goals and ensuring our future success is trade promotion authority. I would like to commend this committee for expeditiously approving the TPA bill in a bipartisan fashion. That, coupled with hard work from our negotiators, will enhance opportunities to sell quality U.S. wheat around the world.

Granting TPA would send a strong signal to the world that the United States is committed to maintaining an aggressive leadership role in promoting free and fair trade.

We are also pleased that, in the trade adjustment assistance bill, you have recognized the special circumstances of farmers and ranchers. It is critical that structures be in place to provide assistance and technical support before farmers are forced to lose their businesses.

We need every tool available to make the markets work for us, and you can provide some of those tools. With a positive outcome of the 301 case, producers will gain confidence that the rules do work. U.S. food aid and export credit guarantees must be staunchly defended.

Finally, negotiators should fully utilize private sector advisory committees to maximize the level of input from U.S. producers. This, too, will enhance producer confidence in the upcoming trade negotiations.

With TPA, the administration, working in partnership with Congress, will be empowered to aggressively negotiate market opening agreements. The wheat industry is committed to working with you and the administration to see that these things come together and work for America.

Thank you.

Senator LINCOLN. Thank you, Mr. Broyles.

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

Senator LINCOLN. I will begin some questions. I know that Chairman Baucus will join us after the second vote. So, as you will notice, we are tag-teaming.

I would like to begin the questioning, if I may, to Ms. Determan. Is that correct?

Ms. DETERMAN. Yes.

Senator LINCOLN. It has been noted, the negotiations of the United States-Chile free trade agreement here today, in many of our comments. But the meat and poultry industries are having to address the failure of Chile to accept our meat inspection system. We also must deal with our differences over grading and labeling standards, which is not something that is new to us, certainly, from Arkansas.

But I would like to hear what your thoughts might be on how these disputes can be resolved.

Ms. DETERMAN. Of course, in the pork industry we feel very strongly about getting the Chilean government to agree to accept our USDA-approved facilities because, even though we have this agreement, if we have those types of meaningless trade barriers then the opening of the market is not accessible to us at all.

So we feel like maybe there are several different ways we can work through this. We worked through it with several other countries in the past, having a group of their scientists speak with our scientists, and understanding the grading system, or understanding the inspection service that we do have in this country.

We have facilitated several of those discussions with other countries, and would be happy to do that again because we know that this is a good market for us. There is a possibility any time you can open up a new market. So I think we can get past this, but we also know that we have to get past it or otherwise it is meaningless for us.

Senator LINCOLN. Do you think it can be done in a timely way?

Ms. DETERMAN. I think so. I think we have done it with several countries before. I think we could just follow the same format, having the folks from that government be able to work with our USDA and have the scientific panels work through those areas. I think it is just a matter of getting that put together and doing it in a very quick manner.

Senator LINCOLN. Do any of the others have a comment on that question?

[No response.]

Senator LINCOLN. I would also like to ask a question of Mr. Scalise.

Mr. Scalise, I know that we here—certainly I do, from the standpoint of my State whose economy is based on agriculture—know about the trade laws mostly in the context of steel, lumber, agriculture. As a leader in the high-tech industry, can you discuss a bit more about the importance of these laws to your industry, perhaps?

Mr. SCALISE. In the 1980s, there was a very good example of just how important these trade laws are for the industry. At the time, we were under siege with dumping and market access issues around the world. Through the implementation of these laws in a very fair and objective way, we were able to deal with these predatory practices and get them set aside.

As a consequence of that, we now have a very strong competitor in the DRAM market, which was one of the most important marketplaces that was under siege at that time. Nine of the 11 companies in the United States were driven out of business during that period.

Another memory product, EPROMS. It has now transformed into flash memory. We would have lost that market as well. But, again, through the implementation of these laws, we are the number-one producer of flash memory in the world today. That is a very important, growing market.

I think beyond that, what is important is that it points out that fair and effective implementation of these laws allows the innovators' edge to really gain the benefits that they deserve through the investment in equipment, plants, technology, all of the R&D that is necessary. This industry has to invest 34 percent of its sales dollar in the combination of equipment, plants, and R&D. That is a very, very heavy toll to pay. Therefore, you have to have markets that allow you to recoup that investment.

But, perhaps more importantly, the benefits that flow to the consumer is what is most important. As long as we can continue to make those investments, the benefits that the consumer gets around the world, not just here at home, are incredible.

Today you can buy, for example, a personal computer for about half the price you could buy it in 1995, and if you put a robustness metric on that computer, it is about 18 times as robust as it was, at half the price. This is just one example.

As we go forward, we are going to make that kind of comparison even more dramatically over the next five to seven years with the implementation of new technology that is under way.

The net of all of this is that, where we were losing market share at a dramatic rate in the 1980s and got below 40 percent, we now

have over 50 percent of the worldwide market for semiconductors today.

We are a leader in virtually every important segment. As a consequence, we think that we are going to continue to be this leader as the market unfolds and we have new competitors, such as China, coming on in the coming years. So, it has had a dramatic impact on the technology world over the last many years.

Senator LINCOLN. Thank you.

Mr. Wainwright?

Mr. WAINWRIGHT. Yes.

Senator LINCOLN. What is your view on how the FISC issue is developing here? We hear a lot about it in some of our smaller meetings among members. Should this be an issue for the new WTO round or should we seek a legislative solution here?

Mr. WAINWRIGHT. Well, I think we should look at it from the standpoint of flexibility, also from the standpoint of making sure that we do not try to enter that with one end in mind.

The stance of the National Association of Manufacturers is, we felt that it was unfortunate that the ruling was against us. We felt that it was necessary to have that to be competitive in the world markets to make a difference for the difference the way our taxation is. That is about all I have to say on it. I think that we need to consider other alternatives.

Senator LINCOLN. Well, we do not take offense. We know how quickly we move around here. So even if it is perhaps the idea that you might not think, in the legislative realm of things, we would move as quickly as we should, that is understandable.

Mr. Broyles, I would like to ask you to perhaps share your thoughts about how the U.S. wheat industry will benefit from, particularly, the trade agreement with Chile. Do you have any comments on that?

Mr. BROYLES. Well, specifically, no, I do not. However, the wheat industry stands firm in its desire that we open up trade agreements with every other country around the world, if possible. So to us, that just gives us an opportunity to have access to the need in that country. It is our understanding that the Chilean agreement will offer that, so that is an opportunity that we have not had in the past and we endorse that.

Senator LINCOLN. I do not know if there is anything in addition to the price bans that are on wheat. We grow a little bit of wheat.

Mr. BROYLES. Well, we would much prefer that there was a removal of those price bans. If there is a tariff, we would like to have that removed, also.

Senator LINCOLN. As I said, we grow wheat, but it is not our predominant crop in Arkansas. We are more focused, probably, on cotton and rice as our issues or our crops, realizing that those price bans might be an issue that you would want the committee to be aware of.

Mr. BROYLES. Our desire is to have an opportunity to sell wheat into that market at a price that they are offering.

Senator LINCOLN. Great.

Ms. Determan, perhaps you might, from the pork producers' standpoint—and really all of agriculture—express to us some of what is at stake for agricultural producers, especially our agricul-

tural producers, obviously, in the new round of the trade negotiations.

Ms. DETERMAN. Well, as I said in my testimony, the WTO round is our number-one priority. Of course, with that, the passage of TPA. We understand the opportunity in agriculture to expand our markets has to come very quickly. Those of us in the pork industry are extremely good at producing the product and we have had an increase of exports over the last 10 years. It has grown significantly. We now export 8.5 percent of our production here in the United States.

So, continuing to expand those markets through the WTO, making sure that we go towards a zero-to-zero initiative, is extremely important. This will only go to increase the livelihood and the profitability for those of us as producers back home on the farm.

Senator LINCOLN. I have got to run vote now, so I am going to hand it back over to Chairman Baucus.

The CHAIRMAN. We have got a good tag team here.

Thank you very much, Ms. Determan.

I have got a couple of questions for Gary Broyles. Mr. Broyles, could you just indicate what you think the administration should do with respect to the Canadian Wheat Board?

That is, whether we should try to enact some kind of quotas or limitations on Canadian wheat in the United States to help encourage Canada to be either much more transparent, or disband the board, or whatnot, or pursue, say, an action at WTO?

What, from the National Association of Wheatgrowers, makes the most sense as to the best action to take with respect to the Canadian Wheat Board?

Mr. BROYLES. In the past, any attempts to bring the Canadian Wheat Board and the Canadian government to the table to discuss their lack of transparency have failed. Therefore, even though we have the long-term stance that we prefer not to have tariff rate quotas, they do serve as an effective tool then to create some pressure to bring them to the table.

What is taking place, is through some very interesting mechanisms of creating huge savings in some areas—they get that through transportation savings that the government offers them, they get it through some very large-volume low-interest loans to make forward purchases of grain—they can get into a position where they can come in and under-sell the U.S. marketers in our own market and, at the same time, essentially, we are not allowed access into their market. We do not even know the price by which they are settling these deals.

Where there is no transparency, our only alternative then—and they are not offering it—is to create enough pressure on Canadian wheat that gets marketed through the Wheat Board by having a tariff rate quota to get them to the table. Certainly, our desire is clear. We think that state trading monopolies should be eliminated and it should be a free market.

The CHAIRMAN. Does the National Association support fast track, TPA?

Mr. BROYLES. Yes, we do.

The CHAIRMAN. As you know, in many parts of the country, including parts of our State, there is some resistance to that. You,

as a wheat producer, certainly understand the resistance, and have talked to a lot of producers who are quite concerned about trade agreements.

What would you say to someone who is legitimately concerned and thinks that perhaps he does not get a good deal with trade agreements? What would your answer be?

Mr. BROYLES. Well, I am not going to defend every trade agreement, or certainly CUSTA or NAFTA, and say that everything was done perfectly in those. But I would tell them, if you have a car wreck, do you quit driving? The answer is no. You would continue to work towards trade agreements and, if you think you might have made a mistake, you learn from it and go on.

The point is, in the wheat industry we sell half of what we raise. I think that makes it absolutely imperative that we be fully engaged and active supporters of mechanisms that open up and create trade agreements with potential customers. Fast track does that.

I think that what has happened, especially in the northern tier States, is there frustration, especially with the Canadian Wheat Board. That is why we think that action needs to be taken here to create some confidence.

As you know, there are several farmers in the northern tier that have expressed some resistance to fast track. I think that is simply a frustration. They do not know quite what to call it, but they do not think that they are playing on a level playing field in the trade arena.

Most of what we see is dealing with the Canadian Wheat Board, and they are not playing fair. So, I think it behooves us at this time to take some action there, build some confidence, and then I believe that you will see producers kind of come around to the whole fast track idea.

The truth of the matter is, I do not think we can live without it. We are in a time of globalization. We are not going to go back to the days without free trade around this globe any more than we are going to go back to the days before electricity.

The CHAIRMAN. As you know, Chile has a free trade agreement with Canada, and I think with some other countries, which enables those countries to export products into Chile, avoiding the tariff. I think the tariff is 9, 10, 11 percent. I have forgotten exactly what it is.

Should we Americans pursue a free trade agreement with Chile? Would that benefit wheat producers?

Mr. BROYLES. Is there a market there for wheat?

The CHAIRMAN. We will try to find it.

Mr. BROYLES. If they want to buy some wheat, then I think it behooves us.

The CHAIRMAN. Good for you.

Mr. Wainwright, I was kind of struck by your two points, one on the high dollar. What do we do about it? It is true, high dollar is a very considerable problem. It is also a big problem for the gentleman sitting to your left, and for many other producers attempting to export overseas.

Mr. WAINWRIGHT. That is true.

The CHAIRMAN. If you had a magic wand and the President said, all right, Arthur, what is the solution? Whatever your solution is, whatever you recommend, that is what it will be. What would you recommend?

Mr. WAINWRIGHT. Well, my first solution is the fact that in free markets, as Secretary O'Neill said, we think the dollar will eventually reach its level under free markets.

But I think what we need to do to help that, is I think we need to get with the G–8. I think we need to sit down, negotiate, and talk, and try to make points that would enable us to get in a position where our dollar would come into line, and some of the changes they can make within their countries, maybe, to raise their currencies. I think that is probably the number-one thing I would say.

The other thing would be that, in our own country, to continue to try to help us move forward with trade negotiations—it is tough to be an exporter when there is a high dollar.

The CHAIRMAN. It is a tough problem to solve.

Mr. WAINWRIGHT. It is.

The CHAIRMAN. There are so many currency speculators in the world. Whenever they get wind that maybe a country might be trying to influence the value of its country or another country's currency, whether it is the United States, Japan, Europe, or whomever, they have got a lot more money than we have got in reserve.

Mr. WAINWRIGHT. Well, being from St. Louis, I think it is kind of like the St. Louis Rams playing the New England Patriots. You have got to play the game. If you are mentally tough, I guess you are going to end up winning. If you are not, you are going to lose.

I think that is really what we have as far as the dollar is concerned. It is a matter of negotiations, because we want a strong dollar, we just do not want an excessively over-valued dollar relative to the other currencies.

So, I think we need to talk with these other countries about what they can do. In other words, let us look at the Japanese. Remember, 10 years ago it was flip-flopped, with their situation internally. They have got their problems.

The CHAIRMAN. Mr. Scalise, your industry faces this problem.

Mr. SCALISE. Actually, as far as the currency is concerned, letting it float, letting it be what it is going to be according to the market, is where we are, generally speaking. It is something that we cannot do much about. We do not think that we are necessarily going to do anything better than what the market is doing as it is.

So what we focus on is continuing to make all of the investments necessary in all of the right areas so that we are more competitive than the other folks around the world, and through that we will win the battles that we are engaged in. I think that is where we will always be as far as currency and the related effects of it.

The CHAIRMAN. In answer to American competitiveness, I assume that part of that is maintaining our trade laws. It is R&D tax credit, permanent. It is some bonus depreciation and acceleration provisions, et cetera, et cetera.

Again, and maybe I have mentioned them, but I have forgotten. What are the two or three main areas that we could focus on?

Mr. SCALISE. Well, first of all, we always take a long view because we are continually developing new technology.

The CHAIRMAN. Right.

Mr. SCALISE. Therefore, we want to make certain that our universities are well-funded in doing the basic research that they are capable of doing. If we do not do that, then a few years down the road all of the good things that are happening today are going to come to a screeching halt. So, that is number one, university funding and basic research by the Federal Government.

The second thing, is to make certain that we have trade laws that allow us to compete effectively in every market around the world on the same basis as everyone else so that we do not have to go through what we went through in the 1980s and deal with predatory practices, and get them finally set aside, then go compete as we have since that time and earn the market share and the success that we enjoy today.

The CHAIRMAN. Are you concerned with the agreement that the United States reached at Doha on this issue?

Mr. SCALISE. Well, as I pointed out in my statement, we are concerned insofar as there is language in there that gives us a concern. What we are hoping, is that as the negotiations go forward, we will maintain the rigor of the laws that are in place today: the dumping rules, the transparency associated with competition policy, things of that nature that can be easily distorted if those rules are adjusted a little.

So, it is our view that it is important that these rules be maintained, because they work very well. There is no reason to change them. We just changed them in the last round. We think that at that stage, they were pretty well-established and did the job as needed.

The CHAIRMAN. Well, I thank you all very much. Some of you have come great distances, from Iowa, from California. I do not how far you came from, Mr. Wainwright, but probably a distance. You probably do not live in this town.

Mr. WAINWRIGHT. How about St. Louis?

The CHAIRMAN. Oh, yes. That is right. St. Louis. They did not win, did they? [Laughter].

Certainly, Mr. Broyles, from Montana. Thank you. It has been a big sacrifice, I know, for a lot of you and we deeply appreciate it. This has been very helpful. As always, it is just a continuing effort to get the next step in place and keep moving.

But, thanks an awful lot. The hearing is adjourned.

[Whereupon, at 12:43 p.m. the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF GARY BROYLES

Good afternoon, it's a pleasure for me to be here and I'm grateful for the opportunity to speak with you today on behalf of the entire wheat industry. Today I am representing the National Association of Wheat Growers, the Wheat Export Trade Education Committee and U.S. Wheat Associates.

My name is Gary Broyles. I raise wheat, barley, hay and red angus cattle on a farm near Rapelje, MT and currently serve as the President of the National Association of Wheat Growers.

I want to commend you, Mr. Chairman, on holding this hearing at this critical time for the wheat industry and all of American agriculture. We are at a time when many issues that will affect our future are in the hands of Congress and the Administration. American agriculture is awaiting a farm bill that will provide a blueprint for how we manage our business on a daily basis—we need your help in finishing this deliberation quickly. American agriculture has always been a strong supporter of Fast Track, now known as Trade Promotion Authority (TPA). We as producers need your help to shore up support for TPA and to provide this authority to the Administration. American is encouraged by the launch of the World Trade Organization (WTO) negotiations, and if Congress passes TPA we are hopeful for very aggressive action in the WTO as well as in negotiations to form a Free Trade Areas of the Americas (FTAA). Additionally, wheat producers are hopeful that the Administration will implement a Tariff Rate Quota (TRQ) on wheat from Canada in response to the Section 301 case against the Canadian Wheat Board (CWB). This action will go a long way in changing the perception that trade is not good for producers and that farmer always lose.

I want to focus on the Section 301 case against the Canadian Wheat Board and the WTO negotiation today.

The Section 301 trade case against the CWB is in its critical final stage. We believe this case fits closely with the overall strategy of U.S. wheat interests in ongoing trade and agriculture negotiations. I want to thank you for your continued support in drawing the administration's attention to the importance of this issue.

As you probably know, one of the wheat industries' positions in the WTO agriculture negotiations is the elimination of state trading monopolies. This is crucial. It is part of the formal U.S. position submitted for negotiations in both the WTO and the FTAA. We must ensure that elimination of monopoly state trading exporters remains a high priority. Furthermore, the TPA legislation now before the Senate includes a clear negotiating objective to achieve more fair and open conditions of trade by "eliminating state trading enterprises whenever possible."

The perfect place to start working towards achieving this goal is the current Section 301 trade case against the Canadian Wheat Board. It provides the necessary means, tools and leverage to bring the CWB and the Government of Canada to the negotiating table; forcing them to enter into meaningful discussions to reform the blatantly discriminatory practices of the Board or face unilateral action under U.S. law for the damages and burden they have placed on my fellow wheat producers.

The United States and Canada compete for world wheat markets in fundamentally different ways. These differences have led to increased friction over the past decade. Most, if not all, of this friction is the direct result of the fact that the CWB is a government-sponsored state trading enterprise with monopoly power to market and sell western Canadian grain. The power of the Board is immense, and the preferences and subsidies it receives from the Government of Canada make it even more powerful, while also protecting it from the pressures and risks facing any commer-

cial wheat producer. The CWB is the world's largest exporter of wheat and its monopolistic powers allow it to engage in unfair pricing which distorts the world wheat market.

The CWB is more than a "'farmers' marketing agency." It has publicly admitted that it has the ability to charge different prices in various export markets as part of its export strategy. The Board has such flexibility in adjusting its export prices because it is not required to commit financially to the full "acquisition price" of the wheat they purchase. In handling exports, the CWB relies on discounted price offers, bonus deliveries, delayed payments and other favorable contract terms in making its sales. None of these export subsidies are similarly available to U.S. farmers and grain companies which must compete on an open commercial market.

Much of the dispute over United States-Canada wheat trade has erupted over the definition of the term "acquisition price." The Canada-United States Free Trade Agreement addressed the pricing of wheat, Canadian transportation subsidies, market access, and import restrictions. To ease concerns that the CWB would sell wheat to the United States at below Canadian farmers' cost of production, the agreement specified that neither country could sell agricultural products to the other at a price "below the acquisition price of the goods plus any storage, handling or other costs incurred by it with respect to those goods." This provision did not resolve concerns of the United States, however, since the agreement did not define "acquisition price."

In May of 1992, the United States requested a dispute resolution panel under provisions of the Canada-United States Free Trade Agreement. The panel, in its final report, determined that "acquisition price" is defined to include only the initial payment. This definition ignores the interim and final payments to farmers, the subsidized transportation system Canada provides, grading and inspection fees, and CWB administrative costs. Furthermore, this initial payment methodology gives the CWB tremendous flexibility in manipulating prices in export markets without regard to the market value of the wheat being exported.

As a result, there have been numerous negotiations, our successful 1994 trade action, and several U.S. government studies and investigations. All of which repeatedly recognized an ongoing trade problem concerning the Canadian wheat trade. These actions have consistently found that the CWB restricts competition and as a state trading enterprise distorts trade.

The Board has argued for the past year that the current Section 301 investigation is simply harassment by U.S. wheat interests since all past investigations have purportedly not found any evidence to support the claims of unfair activities by Canada. Nothing, as you well know, could be further from the truth. In reality, the General Accounting Office, International Trade Commission, Department of Commerce, and even the WTO have tried to get information from the CWB which would assist in resolving this issue once and for all but have been rebuffed and never able to get sufficient data. Lack of transparency makes information about the CWB almost impossible to obtain.

However, despite the best efforts of the U.S. wheat industry over the past decade, no previous case, investigation or temporary settlement has addressed the fundamental problem of the Canadian Wheat Board. That is—the existence and operation of a monopoly marketing board, especially in a free trade area.

So, on September 8, 2000, the North Dakota Wheat Commission took the lead and filed a Section 301 petition pursuant to the Trade Act of 1974. Section 301 may be used to enforce U.S. rights under international trade agreements and may also be used unilaterally to respond to unreasonable or discriminatory practices that burden or restrict U.S. commerce. For quite some time that clearly has been the correct description of the practices of the Canadian Wheat Board.

When the Board cries out that this investigation is yet another attempt for U.S. wheat farmers to harass and interfere in Canada's wheat trade, it has no one to blame but itself. The lack of genuine efforts by the Canadian Government and the CWB to modify its unfair pricing practices led to the Section 301 petition. It is a sound petition, that is supported by the National Association of Wheat Growers, the Wheat Export Trade Education Committee, U.S. Wheat Associates, state wheat commissions and grower associations in Arizona, California, Colorado, Idaho, Minnesota, Montana, Nebraska, North Carolina, Oklahoma, Oregon, Kansas, South Dakota, Texas, Washington and Wyoming. In addition, we are supported by the National Farmers Union, American Farm Bureau Federation, North Dakota Farm Bureau, North Dakota Farmers Union, North Dakota Grain Growers Association, North Dakota Grain Dealers Association, U.S. Durum Growers Association, and others.

The language of Section 301 was intended by Congress to provide the President with "negotiating leverage" to "insure fair and equitable conditions for United States

commerce" and "to eliminate barriers . . . and . . . distortions . . . on a reciprocal basis." Further, Congress, in debating the bill, argued that "foreign trading partners should know that [the United States is] willing to do business with them on a fair and free basis, but if they insist on maintaining unfair advantages, swift and certain retaliation against their commerce will occur."

I would like to comment briefly on why North Dakota chose the Section 301 process to initiate our fight against the unfair trade practices of the Canadian Wheat Board. The Section 301 investigation was the most prudent step to take at this time as it offered several attractive advantages. First, it provides the opportunity to address the fundamental operations of the Board in all its manifestations. Second, the investigation must be conducted within a time frame that increases the possibility of a quick resolution of the problem. And, third, if the foreign country conducting the unfair and discriminatory practices refuses to engage in negotiations to resolve the dispute, the United States may take unilateral action. This last provision is indeed what makes the Section 301 process so controversial with foreign countries.

This case is not an attack on Canadian wheat farmers. It is, however, verification of what many of you already know about the CWB price undercutting and its negative impact on U.S. producers. The Canadian Wheat Board's activities distort trade. Canadian wheat growers need to be aware that this monopoly marketing desk is not maximizing returns to Canadian producers.

This case is also not a threat to the U.S. milling industry's supply of wheat. We have been disappointed that millers and the North American Millers' Association chose not to support, or at least stay on the sidelines, in the investigation. Their argument that they need access to Canadian wheat for quality purposes was shown to be false throughout the investigation. The web of influence of the CWB is vast and NAMA's position has proven this. Rest assured, any action we have asked the U.S. government to take against the Canadian Wheat Board—even the imposition of tariff rate quotas—will not threaten their access to sufficient quantities of quality wheat.

Let me now bring you up to date on the status of the Section 301 investigation. The petition was filed on September 8, 2000 and the U.S. Trade Representative accepted the petition and initiated the investigation on October 23, 2000. The Section 301 Committee established to conduct the investigation then requested public comment on how the investigation should be conducted and in April of 2001 formally instructed the U.S. International Trade Commission (ITC) to conduct a Section 332 general fact-finding investigation into the competitive conditions of wheat trade between the United States and Canada. Under this Section 332 investigation, the ITC held a public hearing on June 6, 2001 at which numerous Members of Congress testified, as well as a panel of witnesses organized by the U.S. wheat industry. Interested parties were also able to file substantive briefs with the ITC during their investigation.

Nevertheless, when the ITC provided the final report in its Section 332 investigation to the U.S. Trade Representative, it was immediately clear that U.S. wheat farmers had won. Among the report's findings are:

- U.S. exports to eight critical foreign markets that were the subject of the investigation are down over the last five years, primarily due to Canadian activity;
- The Canadian wheat market is essentially closed to U.S. wheat exports;
- The Canadian Wheat Board has a competitive advantage in contracting for sales of durum wheat for future delivery. This has precluded the development of a viable futures market on U.S. grain exchanges; and,
- The Canadian Wheat Board benefits from substantial transportation preferences.
- The major difference between U.S. and Canadian wheat industries is the middleman sector. In the U.S., the middleman consists of numerous producer cooperatives, and small and large grain trading companies (competition determines market values.) In Canada, the middleman sector consists of the CWB, which is empowered with monopsony and monopoly power.
- ITC report estimates a $6/ton advantage on rail freight to the U.S. and third country markets. This advantage is solely due to government guarantees on car allocation and revenue caps on rail rates. (A situation, no commercial grain company in the U.S. can counteract other than through reduced price offers and ultimately reduced producer prices.)
- CWB claims they have no preferential access to railcars. Independent reports and the ITC investigation show differently.
- ITC could find no clear explanation for the difference in rail deductions, especially when comparing rates from similar locations for durum and hard red spring wheat. (This difference amounts to a $.15 to $.18/bushel advantage on delivered Minneapolis values for durum.)

- CWB has greater potential and flexibility to underprice its rivals since it is only required to make the initial payment (guaranteed by the government). Legally, no further payments are required. Thus, the CWB has no break-even floor below which it cannot price. The freight calculation provides another cushion: the difference between actual freight charged or costs incurred and deduction taken from producer payments, it is alleged, used to reduce selling prices for wheat.
- Although the CWB states it is a "commercial entity", it is immune from the usual commercial threats to a corporation's survival.
- Varietal registration and kernel-visual-distinguish ability (KVD) system administered by the CWB and other arms of the Canadian Government, have had the practical affect of virtually excluding U.S. wheat shipments to Canada. Although the position of the Canadian Government is that U.S. wheat can "freely enter Canada," Commission staff interviews indicated that U.S. exports are difficult, burdensome, and infrequent. The excessive paperwork and regulatory review by Canadian officials that require carefully orchestrated on-site inspections by the CGC to prevent "commingling" effectively create a prohibitive non-tariff barrier to U.S. milling-grade wheat.
- Government backing of financing gives the CWB a 3 to 24 percent cost advantage over what a private borrower (commercial grain trader) would have to pay for financing.

Several statements from the ITC report highlight these problems. For example, the ITC report states:

> ". . . the CWB can forward contract durum to U.S. and/or third-country purchasers in a way that no U.S. durum supplier can do given the high level of risk and price volatility facing small suppliers in a thinly traded market. . . . The demise of the Durum futures contract on the Minneapolis Grain Exchange is partly related to the presence of the CWB."
>
> "Market power is only one of the CWB's notable structural characteristics. As shown . . ., the Board is in all significant respects an arm of the Government of Canada, with Government approval and backing of its borrowing and other financing, which reduces its costs and insulates it from the commercial risks faced by large and small U.S. grain traders."
>
> "Further, the CWB's producer pool system (by which Canadian wheat producers are remunerated) gives the CWB flexibility in marketing beyond the ability to forward contract. Producers receive a Government—approved and—guaranteed initial payment early in the crop year, with subsequent interim and final payments as the crop is harvested and sold on world markets. Not only are such subsequent payments payable only to the extent the CWB makes money on its sales, but they are subject to a variety of CWB-determined deductions for freight and other expenses. Some of these deducted expenses are "phantom" expenses (expenses not actually incurred by the CWB . . .). The resulting surplus revenue gives the CWB a price cushion in its negotiations with domestic and foreign buyers.
>
> "The lack of price transparency within Canada gives the CWB an inherent marketing advantage over U.S. competitors. This is particularly true in durum markets, but also in HRS markets."
>
> "Additionally, the CWB sells wheat to domestic Canadian millers using a North American pricing policy that ensures that its selling prices to Canadian millers are competitive with U.S. prices . . . the CWB will lower its price to Canadian wheat mills in order to eliminate any possibility of U.S. wheat or flour coming into Canada."

The ITC report includes some attempts at pricing comparisons between U.S. and Canadian spring wheat and durum sales, but it is of questionable value because the CWB refused to provide specific pricing data. Though this is a major limitation in the ITC report, it continues to make clear that the Board hides behind a veil of secrecy and refuses to cooperate. The Board does not want to release pricing data. This is because the CWB is not required to ever turn a profit or maximize Canadian grower returns. Instead, as a state trading enterprise, it simply passes its sales discounts on to Canadian farmers in the form of lower returns than they would otherwise receive. The Board has every incentive to engage in anti-competitive activity because it seeks to maximize sales volume rather than revenue. It is exempt from Canadian competition law, and has monopoly control over the only major crop alternative to wheat. Given the fact that the Board has refused to release such pricing information in this and all past investigations the Section 301 Committee has been asked to apply adverse, or negative, inferences against the Board when considering pricing information.

With the release of the report last month, the ITC's portion of the investigation concluded. The matter again rests before the U.S. Trade Representative. The Section 301 Committee has again invited the public to comment upon whether any action should be taken against the Canadian Wheat Board, the amount of damages or burden its practices have inflicted upon U.S. commerce, and suggestions for proposed remedies.

As I previously mentioned, the Section 301 investigation provides the leverage to bring the Canadian government and the CWB to the negotiating table over their unfair trade practices and the existence of a state trading enterprise in a free trade area. However, a Section 301 case is a hybrid animal involving both regulatory and political elements. While the ITC report indicates that we have obtained ample evidence regarding the Board's practices, political action will be needed to ensure that the Trade Representative issues a final determination in our favor on February 15, and recommends to the President that action be taken against the Board.

While the wheat industry has historically been very supportive of free and liberalized trade, past failure to address this trade problem has undermined farmers' support for future trade negotiations. It is only right and just that producers expect a fix to the inequities in the Canada-United States Free Trade Agreement by addressing the continuing trade distorting practices of the Canadian Wheat Board. Addressing this issue will strengthen grassroots support for trade negotiations.

We need the support of Congress in this effort to put an end to the market distortions that result from the activities of the Canadian Wheat Board. We need your support to resolve the fundamental problem existing between the United States and Canada on wheat—the continued existence of a state-run monopoly marketing board in a free trade area. Early resolution of this problem can assist in ensuring success in negotiations for free trade agreements and in the next round of WTO negotiations.

The following is a review of remedies we are requesting to address the unfair trade practices of the Canadian Wheat Board. We have recommended to the Section 301 Committee that the overall negotiating objectives of the U.S. Government be as follows:

- The export monopoly of the CWB must be eliminated. The Board should export wheat on commercial terms in competition with other exporters of grain.
- The supply monopoly of the CWB must also be eliminated. The Board should acquire its wheat in commercial competition with other exporters and processors.
- Full market access and national treatment for U.S. wheat entering Canada must be demanded. The current system is designed primarily to perpetuate both the supply and export monopoly of the CWB.
- Full transparency of CWB operations must be achieved.
- If there is a transition period towards full elimination of the supply and export monopolies, the Canada-United States Free Trade Agreement "acquisition price" definition must be changed to a percentage which represents the full cost of the grain minus the percentage of the prior year's crop costs accounted for by the CWB's administrative costs.

These are the long-term objectives being sought in the Section 301 investigation. Our particular focus is to break the state-run monopoly, and subject the Board to market discipline. However, America's wheat farmers must survive in the short-term in order for these long-term goals to be of any meaning. Thus, we have requested that tariff rate quotas be established against Canadian wheat. The purpose for this is two-fold. First, if the unreasonable, discriminatory and burdensome practices are not immediately resolved by this investigation, the United States should without hesitation retaliate to protect U.S. farmers. The Government of Canada and the CWB should know that if they do not come to the negotiating table in a good faith effort to resolve this long standing dispute, then the U.S. government will act unilaterally. Second, as Canada accepts change, implementation of these tariff rate quotas will be necessary in order to maintain some order as the wheat market adjusts and the Board eases into true free trade.

We have recommended the following TRQs:

Durum Wheat (in thousands of metric tons):

Quantity	Tariff
0 - 300	NAFTA rate
300 – above	$50.00/ton

Other Wheat (in thousands of metric tons):

Quantity	Tariff
0 - 500	NAFTA rate
500 - above	$50.00/ton

These tariff rate quotas would be put in place during two crop years and then adjusted or eliminated in subsequent years as fundamental reforms of the CWB are implemented. The North Dakota Wheat Commission has focused on the longer-term goal, which is the breaking up of the monopoly. At times, and with some criticism and political risk, it has resisted pressure for only short-term relief. A short-term gain is not necessarily a win, and that is how we view the tariff rate quota. It needs to be there to protect farmer interests, but it is also important leverage to finally bring true reform to the Canadian Wheat Board. It has become abundantly clear that the Board is not going to alter its practices or policies without a push. They have not cooperated with any effort to resolve this matter in the past ten years. So, if Canada fails to see the light this time, the tariff rate quotas will be the stick that the U.S. government can use to bring them to the negotiating table while also helping U.S. wheat farmers survive in the short-term until the longer-term goals can be achieved.

The longer-term goal of eliminating monopoly state trading entities is part of a broad list of goals developed by the U.S. wheat industry before the WTO ministerial in Seattle. As you know, a round was not launched until the most recent ministerial in Doha, Qatar. However, the industry's goals have remained the same and we feel very positive about the outcome of the recent ministerial and the agreement to launch a comprehensive round of negotiations that will build on the significant progress in agricultural trade achieved in the Uruguay Round.

I will summarize the U.S. wheat industry's goals for the new round of negotiations. I have also attached the full document to my testimony.

The U.S. wheat industry identifies the elimination of monopolistic state trading exporters and all direct export subsidies as top priorities. We also support the disciplining and elimination of trade distorting domestic support programs. Market access must be improved by reducing agricultural tariffs and eliminating price band systems. Sanitary and Phytosanitary (SPS) problems and problems related to trade in products of biotechnology must be aggressively pursed and any decisions should be made on a sound scientific basis. U.S. food aid and export credit guarantees must be staunchly defended as legitimate programs. And finally, negotiators should fully utilize private sector advisory committees to maximize the level of input from U.S. producers. This final goal will assist in the much needed effort to solidify support among the agriculture community for further trade negotiations.

We recognize that this list is long and optimistic, but since wheat is an export dependent commodity our options are limited to one—be fully engaged in efforts to make world trade freer and fairer. We export nearly half of all wheat produced making unfettered access to the worldwide market absolutely imperative. One important component in achieving our goals and ensuring our future success is Trade Promotion Authority. I would like to commend this committee on expeditiously approving a TPA bill in a bipartisan fashion that, coupled with hard work from our negotiators, will enhance our opportunities to sell U.S. quality wheat around the world.

We are also pleased that in the Trade Adjustment Assistance bill you have recognized the special circumstances faced by farmers, ranchers and independent fishermen. It is critical that structures be in place that provide assistance and technical support before farmers are forced out of business.

The U.S. wheat industry believes that Congress should grant TPA to the President that is unencumbered by environmental or labor provisions. TPA is a tool that gives the United States the opportunity to remove foreign barriers to trade and opens markets for American exports.

As you are well aware the last Fast Track legislation expired in 1994 and now the Administration is seeking its renewal. The vote in the House, in conjunction with the diligent work of this committee will hopefully carry momentum to a vote in the full Senate as soon as possible.

Our competitors and trading partners are not willing to come to the table and negotiate good deals if they know that all 535 members of the U.S. Congress have the right try to amend the agreement. They look to the Administration to have the authority to speak with the support of Congress.

Granting this authority would send a strong signal to our trading partners that the U.S. is committed to maintaining its leadership role in promoting free and fair trade around the world. TPA will make our trading partners more willing to make politically difficult decisions to dismantle trade barriers and open domestic markets to U.S. products. The chance to resolve on going problems will be enhanced.

TPA should be structured in such a way that ensures our trading partners will not refuse to come to the negotiating table to discuss market-opening issues.

Without TPA our competitors continue to gain the upper hand in international markets. For Example:

- The European Union has achieved an interim trade agreement with Mexico and moved toward formal negotiations for trade agreements with Chile, Argentina, Brazil, Paraguay and Uruguay.
- FTAA negotiations have begun, but other countries in the hemisphere continue to insist that without TPA they will be hard pressed to make politically difficult decisions to open markets.
- Canada is capitalizing on the competitive advantage provided by their free trade agreement with Chile. Canada is accelerating efforts to negotiate preferential access to markets in Northern Europe and throughout South America. Canada continues to hold its agriculture sector outside the terms of these agreements to maintain its protectionist supply managed practices.
- Mexico is expanding its free trade arrangement with Chile and continuing to negotiate trade agreements with countries in Central and South America, Japan and the European Union.
- Argentina as a member of the South American trading block MERCOSUR, receives preferential treatment in exporting wheat to Brazil, one of the largest wheat importers in the world.
- Market Access—tariff levels at 50 percent to 5 percent U.S. producers face tariffs as high as 100 percent while ours average less than five percent.
- Export Subsidies—the U.S. accounts for 2.2 percent of the world total while the EU accounts for 90.3 percent.

Members of the committee, U.S. wheat producers and American agriculture are dependent on export markets. We need every tool we can get to make the markets work for us and you can provide some of those tools. With a positive outcome of the 301 case producers will be more inclined to think that the rules do work. With a good TPA bill the Administration, working in partnership with Congress, will be empowered to hold tight and negotiate market opening agreements. We are all in this together. The wheat industry stands ready to work with you and the Administration to see that these things come together and work for America.

Thank you, for this opportunity and I look forward to answering your questions.

PREPARED STATEMENT OF BARB DETERMAN

Mr. Chairman and Members of the Committee:

I am Barb Determan, an independent, family pork producer from Early, Iowa. I also grow corn and soybeans on my farm. I am the current President of the National Pork Producers Council (NPPC).

Mr. Chairman, I greatly appreciate everything that you and Senator Grassley and the other members of this Committee have done to advance U.S. agricultural exports. NPPC continues to co-chair the Agriculture Coalition for Trade Promotion Authority. We and our colleagues in U.S. agriculture appreciate the strong vote of this Committee in passing bipartisan TPA legislation. We look forward to a speedy and successful Senate vote on TPA. I also appreciate the tireless efforts of Ambassador Zoellick and our trade negotiators. I strongly believe that the future of the U.S. pork industry, and the future livelihood of my family's operation, depend in large part on further trade agreements and continued trade expansion.

The National Pork Producers Council is a national association representing 44 affiliated states that annually generate approximately $11 billion in farm gate sales. According to a recent Iowa State study conducted by Otto and Lawrence, the U.S. pork industry supports an estimated 600,000 domestic jobs and generates more than

$64 billion annually in total economic activity. With 10,988,850 litters being fed out annually, U.S. pork producers consume 1.065 billion bushels of corn valued at $2.558 billion. Feed supplements and additives represent another $2.522 billion of purchased inputs from U.S. suppliers which help support U.S. soybean prices, the U.S. soybean processing industry, local elevators and transportation services based in rural areas.

Pork Producers are Benefiting from the Uruguay Round and the NAFTA

International trade is vital to the future of American agriculture. As the world's biggest exporter of agricultural products we have a critical interest in the development and maintenance of strong and effective rules for international trade. This is especially true for pork, the world's meat of choice, which represents 44 percent of daily meat protein intake in the world. Notwithstanding the huge global market for pork and pork products, efficient U.S. producers were precluded from exporting significant volumes of pork in the pre-Uruguay Round Agreement, pre-NAFTA era. A combination of foreign market trade barriers and highly subsidized competitors effectively limited U.S. pork exports.

The Uruguay Round succeeded in establishing a more effective set of trade rules for the agricultural sector and began the process of reducing trade-distorting subsidies and import barriers. Since 1995, when the Uruguay Round Agreement went into effect, U.S. pork exports to the world have increased by approximately 100 percent in volume terms and 108 percent in value terms from 1994 levels. In 2000 the U.S. exported a record 568,203 metric tons of pork valued at $1.31 billion. Pork exports from the U.S. to Mexico exploded in 1994 when NAFTA went into effect. Even with the devaluation of the peso U.S. pork increased market share in Mexico—this never would have happened without NAFTA. Mexico is now the pork industry's second most important market behind Japan.

Pork exports generate wealth and create good paying jobs that contribute significantly to the economic well being of rural America. According to a recent study by two Iowa State University Economists using the FAPRI model, a cessation of U.S. pork exports this year (due for example to an embargo or animal disease outbreak) would cause cash hog prices in 2001 to plummet by $17.80 per head ($6.87 per cwt). Research conducted by the Economic Research Service of the United States Department of Agriculture (ERS) indicates that for each dollar of value-added agricultural exports such as pork, $1.63 in additional U.S. economic activity is generated. Moreover, ERS calculates that every billion dollars in pork exports creates an additional 23,000 new jobs in the U.S. economy.

During the past decade the number of hogs processed in the United States increased from 85 million to 101 million while the pork derived from these hogs increased from 15.4 billion pounds to 19 billion pounds. While not all of this increase is attributable to exports, much of it is. As a consequence of this increased production, more people are employed in the supply and processing industries. This means that packers and processors will operate at higher levels of capacity and/or build new facilities. More U.S. inputs, such as corn and soybeans, and more U.S.-made machinery will be utilized. More packaging supplies are used and more shipping services are consumed. Exports contribute to the well being of rural America through such growth. Given that 96 percent of the world's population resides outside the United States, it is exports that will drive the future growth and viability of the industry.

As benefits to the pork industry from the Uruguay Round and the NAFTA begin to diminish, the importance of additional trade agreements becomes paramount. *While U.S. pork producers support bilateral and regional trade initiatives, clearly the most important trade initiative in the offing is a new WTO agreement.* This is because global agricultural tariffs average 62 percent, while U.S. agricultural tariffs average only 12 percent. The situation for the U.S. pork industry is worse than the average. Foreign tariffs on pork average close to 100 percent. Even in Japan—our largest export market—U.S. pork exports are severely limited due to a gate price system and safeguards designed to protect Japanese producers. U.S. pork import tariffs, which are zero on many products, are among the lowest in the world. Moreover, the U.S. pork industry—which is not eligible for export subsidies and receives virtually no domestic support—must compete globally with subsidized pork from the European Union and other countries.

The stage is set for significant multilateral gains in the WTO Negotiations

The Doha Ministerial Declaration provides a firm foundation for a successful negotiation on agriculture. First, it establishes a broad negotiating agenda. It is well established that agriculture is one of the more sensitive areas in international trade.

Some of our most important negotiating partners (e.g.,the European Union, Japan and South Korea) will be reluctant participants when it comes to agriculture. Only in the context of a large package of agreements and concessions will they be able to accept an ambitious outcome on farm trade. It would have been nearly impossible for the U.S. to negotiate successfully on agriculture outside of the context of a broader round.

Second, the new round will be concluded on the basis of a "single undertaking" covering all areas. This "nothing-is-agreed-until-everything-is-agreed" approach was devised to force negotiators to finish their work in the most sensitive areas or risk an overall failure. The approach was essential to the achievement of the Uruguay Round Agreement on Agriculture and the Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures, and we believe it will be equally valuable in the present context. A sector-by-sector approach would not give U.S. negotiators the leverage they need to conclude a successful deal.

Finally, the Doha Declaration establishes an ambitious timeline for negotiations. New modalities for agricultural tariff and subsidy reductions are to be agreed by March 2003. Members must submit draft schedules of commitments, based on those modalities, by November 2003, and the entire negotiation is to be completed by January 1, 2005. While these deadlines are tight, we believe they are realistic. Agriculture negotiators have been at work for nearly two years already. And because the Uruguay Round Agreement provides a negotiating framework, their task is less technically complex than it was in the previous negotiation. All that is needed is political will on the part of the participants. A tight timeline should help apply the necessary pressure.

To meet the deadlines, the negotiations will have to move forward in earnest this year. If the U.S. is to provide the leadership that our agricultural sector has every right to expect, our negotiating partners must know that U.S. leadership is based on and supported by authority from Congress. Trade Promotion Authority legislation is not an option; it is a prerequisite. Without TPA the WTO negotiations will languish and U.S. farm families and workers will not achieve the level playing field they deserve.

Zero-for-Zero Negotiating Objective for Pork in the WTO

As noted above, U.S. pork producers have been a major beneficiary of past trade agreements. However, our ability to reap further benefits is severely hampered by the continued existence of trade-distorting policies. Import barriers remain high in many important markets, and our biggest export competitors continue to use subsidies to capture and maintain market share. The elimination of such unfair trade practices is essential to the future health of the U.S. pork industry.

U.S. pork producers therefore propose that the United States adopt as a primary negotiating objective the total elimination in the shortest possible time frame of all tariffs, all export subsidies and all trade-distorting domestic subsidies for pork and pork products worldwide. In late 1999, Mr. Chairman, you and Senator Grassley originated a bipartisan letter to then U.S. Trade Ambassador, Charlene Barshefsky, endorsing this initiative. Twenty-five other Senators, including many members of this Committee, signed that letter. The pork industries of the Canada and the United States continue to work with their respective governments to gain support for a zero-for-zero initiative on pork in the WTO agriculture negotiations. Recently, the pork producers of Mexico agreed in principle to support this initiative. The Brazilian pork producers are expected to soon endorse the initiative. The United States should use its negotiating leverage to push this objective with our more reluctant trading partners in order to ensure that we are afforded the opportunity to take advantage of our natural competitiveness.

WTO NEGOTIATING OBJECTIVES FOR THE AGRICULTURE SECTOR

I want to make it clear that we in the pork industry do not view our zero for zero initiative in any way as a substitute for a comprehensive negotiation in agriculture. Fundamental liberalization in the pork industry can be most easily achieved in the context of an ambitious overall agreement. Therefore, I will outline our negotiating objectives for the agricultural sector as a whole.

Tariff Reductions Must Be Accelerated

One of the fundamental principles of the Uruguay Round Agreement on Agriculture is the requirement that non-tariff barriers such as quotas, variable levies, and import bans be eliminated and immediately replaced by either a tariff equivalent or a tariff rate quota (TRQ) through the process of "tariffication." The Agreement used a "formula" approach to reduce tariffs. It required tariff reductions of 36 percent on average for developed countries and 24 percent for developing countries

over a six-year period on a simple average basis. (Tariff reductions as small as 15 percent were allowed for "sensitive items.") The Agreement also established minimum access levels at 3 percent of domestic consumption gradually expanding to 5 percent thereafter.

Notwithstanding the progress made in the Uruguay Round, tariffs on agricultural products remain very high. *The accelerated reduction of tariffs should be the number one U.S. priority in the upcoming trade round*. U.S. agricultural tariffs, are dwarfed by the agricultural tariffs of other nations. For some products, tariffs of over 200 percent remain in effect. Agricultural tariffs must be lowered from these high levels on an accelerated basis. A substantial reduction in the highest tariffs would help to end practices such as "price bands" in which high bound tariffs create a cushion that allows lower applied tariffs to be adjusted frequently in order to keep domestic prices within a specified range. *Further, a date needs to be set by which all tariffs will be reduced to zero.*

The best way to achieve such comprehensive liberalization is through the use of a tariff cutting formula that is applied to every product without exception. There are an infinite number of formulas that could be devised to cut tariffs, the "best" formula obviously depending on the results desired. We prefer an approach like the Swiss formula used in the Tokyo Round negotiations, which resulted in substantially larger cuts in higher tariffs and had the effect of dramatically reducing the disparities in levels of protection. In addition, countries could engage in request/offer negotiations to achieve deeper-than-formula reductions for specific products. *This segment of the negotiation would provide the opportunity to pursue the zero-for-zero objective in the pork sector.*

Certain groups in the U.S. have suggested that the market access negotiations be conducted on a request/offer basis. They suggest that such an approach would be more flexible and politically manageable because it would allow the U.S. to exempt "sensitive sectors" from the negotiation. We disagree. A request/offer negotiation, or any other tariff cutting approach that allows for product or sectoral exceptions, would run contrary to U.S. trade interests. The U.S. is the worlds largest exporter of agricultural products and is among the most efficient farming countries in the world. Many of the products we export, pork included, are considered "sensitive" by certain major importing countries. If the U.S. takes products from the negotiating table, other countries will be free to do the same. The result would inevitably be a small agricultural market access package.

Moreover, the request/offer would result in a politically-unsustainable clash of interests. U.S. officials would be besieged by commodity groups and companies seeking an exemption from tariff reduction or some other form of special treatment. Inefficient sectors could achieve their aims only at the expense of more efficient and competitive producers. This is directly at odds with the principle of comparative advantage that is the basis for our free market system. On the other hand, export oriented industries could get desired cuts on duties from trading partners only by inducing the U.S. government to offer deep cuts in duties for products with the highest levels of protection. A formula approach avoids this problem by treating all sectors equally. Cuts are agreed multilaterally and applied comprehensively.

Finally, an approach that permits product or policy exemptions would undermine U.S. negotiating leverage. The U.S. was able to achieve much of what we wanted in the Uruguay Round negotiations because we adopted and stuck to a consistent, coherent negotiating position. Countries like Canada, which took inconsistent positions in an effort to protect its domestic supply management regimes, were viewed as being cynical and opportunistic. Their credibility suffered, and they had difficulty attaining their negotiating objectives.

The Administration of Tariff Rate Quotas Must Be Improved

In most instances, creating a TRQ satisfied the minimum access commitment for tariffed agricultural products in the Uruguay Round. Under this mechanism, the quantity of imports within the minimum access commitment is subject to a low duty (the "in-quota" tariff), while imports exceeding that quantity will be assessed the tariff established through tariffication (the "over-quota tariff").

Unfortunately, in some cases, the administration of TRQ's has been used as an instrument to thwart imports. For example, the Philippines tried to close off its market to pork imports by manipulating in various ways the terms governing its pork TRQ. First, the Philippines simply tried to cut back its obligations on pork from 54,210 MT to 6,003 MT. Next, the Philippines threatened to restrict utilization of the TRQ by modifying the TRQ to limit access to 2,000–3,000 MT of pork cuts with the balance designated for "chilled pork heads and feet." Then, there was discussion about allocating 90% of the quota to fresh/chilled pork. This would have restricted imports because the distribution infrastructure in the Philippines at the

present time can handle only a very limited amount of fresh/chilled pork imports. Next, the Philippines allocated over 80 percent of the TRQ to Philippine hog producers, who had absolutely no interest in importing pork. Further, onerous requirements, such as the posting of 100 percent of the value of the shipment, compromised the participation of other importers. Not surprising, the result was a minimal level of pork imports until the United States threatened to reduce the level of participation by the Philippines in the U.S. Generalized System of Preferences program.

These kinds of problems arise from the lack of clear, specific rules on import licensing and the administration of TRQ's. In the WTO agriculture negotiations, rules on TRQ administration must be clearly delineated. In addition, ceilings must be established for over-quota duty levels.

Export Subsidies Should Be Eliminated

Export subsidies are universally recognized as the most trade-distortive of government policies. Prior to the Uruguay Round, export subsidies for agricultural products were relatively undisciplined. Although earlier rounds of multilateral trade negotiations were successful in disciplining export subsidies for industrial products, only the most basic of these disciplines applied to agriculture. As a result of the Uruguay Round, subsidies on agricultural exports were reduced in both terms of quantity and government expenditures on a product-specific basis.

While significant progress was made in the Uruguay Round, export subsidies remain a major problem for U.S. agriculture. *The elimination of all export subsidies should be a top priority for the U.S. in the WTO trade negotiations*. Export subsidies transfer market share away from U.S. pork producers, the world's lowest-cost producers of pork, and give it to EU and other less efficient pork producers. Data compiled by USDA shows that during GATT year 1998/1999, the EU subsidized more than 750,000 metric tons of pork exports, a subsidized tonnage that exceeds total U.S. pork exports.

Trade-Distorting Domestic Support Should Be Further Disciplined

The pork industry recognizes the complexities of agricultural politics and acknowledges that farm programs often are designed to meet social as well as economic objectives. Nonetheless, it is essential for the next trade round to accomplish much stricter disciplines on trade-distorting domestic support programs than was possible in the Uruguay Round. The 20 percent reduction in the Aggregate Measure of Support (AMS) achieved in the Uruguay Round did not go far enough. We need to see further significant reductions. Moreover, those reductions should be applied on a commodity-by-commodity basis, rather than a sector-wide basis, as was the case under the Uruguay Round agreement. For pork, all trade-distorting supports should be eliminated, and all tariffs and export subsidies abolished as part of the zero-for-zero initiative.

The Peace Clause Should Not Be Extended

One of the most promising sources of meaningful leverage for the United States is Article 13 of the Uruguay Round Agreement on Agriculture—the so-called Peace Clause. Article 13, which was included in the Agreement at the insistence of the European Union, suspends until January 1, 2004, the application to agricultural products of certain WTO disciplines, the most significant of which are Articles 3, 5 and 6 of the Agreement on Subsidies and Countervailing Measures. With the expiration of Article 13, the EU would immediately be in breech of its obligations under Article 3 of the Subsidies Agreement, which prohibits export subsidies (Article 13(c)(ii)). At the same time, the U.S. would be in a position to begin dispute settlement proceedings under Article 6 against any domestic or export subsidies that are causing serious prejudice to U.S. exports in third-country markets (Article 13(b)(ii)). Obviously, these are powerful disciplines.

The Peace Clause expires automatically. The only way to extend it would be to negotiate a new agreement that includes similar protections. The EU, in particular, will have a strong incentive to achieve such an agreement and will presumably be ready to pay a high price for it. It should be much easier to achieve within three years an agreement that includes a phased elimination of export subsidies and meaningful disciplines on trade-distorting domestic subsidies if the EU is facing, in the absences of such an agreement, the immediate application of even stronger measures.

The United States should do everything possible to take advantage of the leverage offered by the Peace Clause. As a first step, the U.S. should publicly declare its willingness to allow the provision to expire. Then, if negotiations drag on unnecessarily, we should prepare to launch dispute settlement cases against the EU under the Subsidies Agreement on January 1, 2004.

Export Credits Should Be Disciplined in the OECD

Under the Uruguay Round Agreement the United States committed, along with other WTO members, to negotiate disciplines on export credits and credit guarantees in the OECD. Unfortunately, the OECD talks have not yet produced an agreement. Now some countries are talking of developing disciplines in the WTO rather than the OECD.

The OECD has experience in the area of export credits, having administered for many years an agreement on export credits for industrial products. It is the proper place to develop disciplines for credit programs for agricultural products. Despite the fact that the United States is currently the biggest user of such credits, we have a long-run interest in imposing disciplines to guard against future abuses by our trading partners. U.S. officials should redouble their efforts to negotiate an agreement in the OECD as quickly as possible. However, the U.S. must show some flexibility on the export credit issue in order to insure that export subsidies are eliminated.

The U.S. Must be a Reliable Supplier of Agricultural Products

Trade liberalization is not a one-way street. If we expect food importing countries to open their markets to U.S. exports and rely more on world markets to provide the food they need, we should at the same time commit to being reliable suppliers. Current WTO rules permit exporting countries to tax exports whenever they choose (GATT Article XI.1), and to prohibit or otherwise restrict exports to relieve domestic shortages (GATT Articles XI.2(a) and XX(i) and (j)). These provisions should be eliminated in conjunction with the phasing out of import barriers. Such a move would not affect the ability of the United States to impose trade sanctions for reasons of national security; that right would be preserved under GATT Article XXI.

The SPS Agreement Should Not Be Reopened

The Uruguay Round Agreement on Sanitary and Phytosanitary Measures requires import measures intended to protect public health or to control plant and animal disease to be based on science. Enforcement of the strict science-based trading rules established in the SPS Agreement is critical to ensure the continued expansion of U.S. pork exports. One measure of the soundness of the SPS Agreement is the fact that other countries, notably the EU, would like to see the disciplines in the agreement relaxed to allow countries to maintain measures that are not based on science. To avoid this outcome, *the pork industry adamantly opposes opening the SPS Agreement for further negotiation.*

REGIONAL AND BILATAERAL TRADE INITIATIVES

While pork producers urge the Administration and the Congress to make the WTO trade negotiations the top U.S. trade priority, pork producers also support U.S. efforts to negotiate regional and bilateral trade agreements wherever feasible. The U.S. pork industry is disadvantaged by the failure of the United States to keep up with the pace of trade agreements in the world. The rapidly expanding Brazilian pork industry—a key competitor to the U.S. industry—now has preferential access into many markets to the detriment of U.S. producers. For example, the U.S. pork industry recently obtained access to the Argentine pork market. We are disadvantaged selling into Argentina because of the preferential access that Brazilian pork exports receive by virtue of the MERCOSUR customs Union. Specifically, the U.S. faces duties as high as 34.5% on pork exported to Argentina while Brazil enjoys duty free access on its pork exported to Argentina. Canada, which probably is our most significant competitor in pork, has gained preferential access into Chile through a free trade agreement. Mexico, which has some world class pork operations and counts Japan among its pork export markets, has negotiated close to 30 free trade agreements. The export-competitive Chilean pork industry, which like Mexico counts Japan as one of its export markets, has preferential access into many Western Hemisphere pork markets to the detriment of the U.S. pork industry.

In Europe, the European Union continues to cut trade deals with the countries of Central and Eastern Europe (CEE). In these so-called double zero agreements, the EU and the CEE country typically agree to offer duty free quotas for a specific quantity of a given agricultural product, such as pork, while anything above the quota is subject to duty. Further the EU and the CEE country agree not to use any export subsidies for the given agricultural product. For example, in July 2000, Hungary and the EU signed a double-zero agreement. The agreement calls for reduced tariffs and an end to export subsidies for 72 percent of Hungary's exports of unprocessed agricultural products to the EU and 54 percent of the EU's agricultural exports to Hungary. The agreement established three lists of goods. For the first list, accounting for a third of Hungary's agricultural exports to the EU, all tariffs were

abolished. For the second list, tariffs were abolished for exports up to a given quota, provided exports above the quota are not subsidized. This second list includes pork. The duty-free quotas on pork are to increase by 10 percent per year.

The U.S. pork industry is disadvantaged in two ways by these double zero agreements. First, the EU gets better market access in CEE countries for its pork exports. Second, the EU is able to conserve its pork export subsidies for other markets outside Europe where we have to compete with them. Even with a small CEE country such as Estonia, the EU expects to save approximately 3,500 metric tons in pork export subsidies. Total EU shipments of pork to CEE countries are about 220,000 metric tons, an amount equal to about 40 percent of total U.S. pork exports.

Pork Producers Support FTA Negotiations with Japan

Japan is the largest export market for the U.S. pork industry. In 2000, the U.S. pork industry exported a record 210,000 metric tons of pork valued at $754 million to Japan. When the full-year 2001 export data are released they will show that the U.S. pork industry had another record year in Japan. However, through the use of a complicated gate price system with numerous safeguards, Japan's pork market still remains only partially open. The positive economic impact that free trade in pork with Japan would have on the U.S. pork industry is staggering. Thus, *Japan is the number one choice of the U.S. pork industry among potential candidates for a bilateral FTA with the United States. We are extremely concerned about the prospects of Japan negotiating FTAs with other pork-producing countries*. Pork is the most produced and most consumed meat in the world. There is significant pork production in Korea and the ASEAN countries. Mexico and Canada which, like Korea (before disease outbreak), are large suppliers to the Japanese pork market, have expressed strong interest in a FTA with Japan. Leaving agriculture out of a FTA is a problem—perhaps a violation of WTO rules. Yet, if Japan does negotiate with these countries, the U.S. pork industry could be severely prejudiced if pork is included in any such FTA.

The Chile FTA Will Be a Precedent for Other Trade Agreements

Like most other sectors of U.S. agriculture, the pork industry believes that the FTA with Chile will serve as an important precedent for future trade agreements. *A strong agreement with Chile will not only set the tone for future negotiations with other trading partners but it will help to coalesce support for trade among farmers and ranchers throughout the country.*

The current applied tariff rate on pork in Chile is 8 percent. Under the United States-Chile Free Trade Agreement, all tariffs on U.S. pork and pork products should immediately be zero. There should be no tariff-rate-quotas and no phase-in period for obligations. U.S. exports of pork to Chile would jump significantly if Chilean import tariffs on U.S. pork were reduced to zero.

Unlike virtually all the countries to which the U.S. exports pork, Chile does not accept pork from all USDA-approved facilities. Rather, like the European Union, Chile insists on sending its own inspectors to U.S. pork plants. This practice is completely unacceptable. It operates as a non-tariff barrier to trade. The United States has the most comprehensive and effective system of food safety management in the world. The wholesomeness of the U.S. food supply is second to none in the world. An integral part of the U.S. food safety system is USDA's inspection and certification of U.S. meat producing facilities. Chile must agree to accept pork from any USDA-approved facility. At one point not long ago, China was reluctant to accept pork from all USDA-approved facilities. USTR and USDA persuaded China to change its position, which is memorialized in the Agreement on United States-China Agricultural Cooperation. Chile must also be persuaded to change its position. *A Free Trade Agreement with Chile should include a provision that requires Chile to accept U.S. pork from any USDA-approved facility*. Zero tariffs absent meaningful market access mean nothing.

Pork Producers Support the Negotiation of a United States-Central American FTA

The U.S. pork industry supports the negotiation of a Central American Free Trade Agreement as announced on January 16, 2002 by President Bush. The pork industry looks forward to working with the U.S. government to rapidly bring tariffs on pork in the region to zero and to resolve pork trade problems.

The U.S. Pork Industry Currently Can Not Support a FTA with Australia

Australia has a zero tariff on imported pork but has a de facto ban on U.S. pork by virtue of a number of sanitary barriers. Denmark and Canada, our top two global competitors, are shipping pork to Australia. The only difference in porcine health status between the U.S. and Canada and Denmark is that Canada and Denmark are free of Pseudorabies Virus (PRV). The U.S. is on the precipice of eradicating

PRV—there are now no known infections in the United States. At any rate, the recently adopted OIE Code chapter on PRV does not include pork in the list of commodities to be considered a risk. The U.S. for years shipped pork to Canada and other PRV-free countries when PRV infection rates were high in the U.S. because there simply is no significant risk of the spread of PRV to domestic livestock from imported meat.

PREPARED STATEMENT OF HON. CHARLES E. GRASSLEY

Mr. Chairman, I am pleased that you are holding this important and timely hearing. Just last November, we successfully launched the ninth round of WTO trade negotiations at Doha. There we agreed on a far-reaching set of negotiations to be completed within three years. As Ambassador Zoellick said at the time, "we removed the stain of Seattle". Now we have to make the most of this hard-won opportunity for free trade. And the opportunities abound.

Each one of the eight preceding rounds of global trade negotiations contributed significantly to the vast increase in prosperity we have seen in the last half of the 20th Century.

In 1947, when the United States helped start the world trading system, the total value of global trade amounted to about $50 billion. Today, thanks to 50 years of progress in getting rid of trade barriers, two-way trade in goods, services, and agricultural products has soared to more than *$7 trillion*.

But, as they say, you ain't seen nothing yet.

Harvard University Professor Jeff Frankel estimates that this new round of WTO trade negotiations could put about $2 trillion in new economic benefits into American pockets. That's about $7,000 for every person in America, or about $28,000 for a family of four! That's more—a lot more—than the economic benefit we've been talking about in the stimulus package.

Trade means jobs for American workers. Better-paying jobs.

And it means more income for American farmers and ranchers.

Mr. Chairman, some have called this new round of negotiations "the Development Round". I think a more appropriate name might be "the Agriculture Round".

Thanks to the extraordinary effort of Ambassador Zoellick and his team in Doha, the agriculture language in the Ministerial Declaration—the road map for the negotiations—gives us the best chance in nearly 10 years to make significant new gains for American agriculture.

Our agricultural negotiating proposals are ambitious.

We want to end environmentally damaging, trade-disrupting agricultural export subsidies. We want new disciplines on trade-distorting domestic support. And we want more market access for our efficient farmers, ranchers and agricultural producers.

Many countries oppose what we are trying to achieve. They want t4o continue sheltering their markets and slowing the process of liberalization. Some even want to put up new market access barriers to our agricultural products.

And that is why the Senate must pass Trade Promotion Authority now. If we don't give the President Trade Promotion Authority soon, the countries seeking agriculture protection will dig in their heels.

They will make the President's negotiating job a lot tougher.

This isn't a theoretical concern. It's a very real and serious danger to our farm economy.

Our delay in passing TPA could hurt virtually every family farmer in America.

WTO negotiations on agriculture and market access begin this week in Geneva. Our negotiators are at the table now. But without TPA, they are negotiating with one hand tied behind their back. That's because without TPA, they lack credibility to make binding offers and finalize commitments.

Without trade promotion authority, and the credibility and clout it conveys, our competitors, not the United States, will shape the negotiating agenda and determine the pace and the scope of negotiations.

Momentum and advantage in complex trade negotiations is often gained or lost when negotiations get underway. And once momentum is lost, it is very hard to recover. That's why it is so important for the President to have Trade Promotion Authority now.

So it's hard for me to understand why the one thing the President needs most to fight for American workers, farmers, and ranchers in the WTO still seems to languish in the Senate.

The House did its part. And by an overwhelming 18 to 3 bipartisan vote, so did this Committee. But Senator Daschle still has not said exactly when he will bring up TPA on the floor.

I am concerned that the longer we delay in the Senate, the harder it will be to do it at all.

Mr. Chairman, I want to make one final point about the Ministerial Declaration we agreed to in Doha.

The United States, and especially you, Ambassador Zoellick, received a tremendous amount of criticism about the fact that the Declaration calls for negotiations on trade remedy laws.

In my view, that criticism is both unfair and unwarranted.

In fact, Ambassador Zoellick, I commend you for the tremendous achievement in getting this language on trade remedy laws in the Declaration.

This language is a very positive development for the United States.

First, it allowed us to get an agreement to launch a new round of trade negotiations.

Just about every WTO Member country wanted some language on trade remedy laws in the Declaration. The United States was the lone hold-out. That is not a tenable position. Our unreasonable, unwavering persistence in saying no to any sort of language on WTO rules was one of the key factors that led to the collapse of the Seattle Ministerial.

More importantly, however, is what the language you succeeded in getting actually says.

It allows us to begin negotiations, and I quote, "aimed at clarifying and improving disciplines under the Agreements. . .while perserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives."

This language is important for two reasons.

First, the word "instruments" refers to our domestic trade remedy laws. We get to preserve *all* of our domestic trade remedy laws. We are required to change *nothing*.

Second, for too long the United States has been on the defensive with respect to our trade remedy laws.

Thanks to this language, we can now go on the offensive. We can, in the WTO negotiations, seek improvements in some of the abusive antidumping practices that other countries have increasingly aimed at us.

For example, Mexico, without any evidence, recently imposed unwarranted punitive duties using antidumping laws on United States beef exports to that country, harming many beef producers in Montana and other states.

South Africa, rejecting a reasonable, commonly used accounting methodology, recently hit our poultry producers with punitive duties on our poultry exports. If not resolved, South Africa's action might ultimately affect over $1.3 billion in worldwide U.S. poultry exports.

Mr. Chairman, these are only two of *many* examples of abusive antidumping practices that are hurting our farmers and agricultural producers. We *should* have discussions about these practices in the WTO.

Ambassador Zoellick, I applaud you for your courage and common sense in fighting for and getting this language in the Declaration. You did it knowing you would face a lot of unwarranted criticism. But it was the right thing to do.

Thank you again for this hearing, Mr. Chairman. I hope that our distinguished majority leader will set a date for consideration of Trade Promotion Authority soon. The states are simply too high to wait.

PREPARED STATEMENT OF GEORGE SCALISE

Introduction

Mr. Chairman, Members of the Committee, thank you for inviting me to appear today to discuss the new round of World Trade Organization (WTO) negotiations launched at Doha last year. My name is George Scalise and I am the president of the Semiconductor Industry Association (SIA). I'd like to give you some background on the SIA and its members, which will help explain why the new WTO Round is so important to America's semiconductor industry.

Background

The SIA represents over 90 percent of America's semiconductor industry. Today, the U.S. industry is the most competitive in the world, with more than 50 percent of world market share. More than 50 percent of our members' revenues is derived from overseas sales, and foreign markets are expected to continue growing in impor-

tance. Where American chipmakers are able to compete fairly—in markets unencumbered by trade barriers—we are successful. As a result, eliminating barriers to trade and further opening world markets is vital to our industry.

SIA has a long history of active support for trade liberalizing initiatives such as the Uruguay Round, the Information Technology Agreement (ITA) and China's accession to the WTO. Since the beginning of the 107th Congress, SIA has worked to gain support and passage of TPA (HR 3005) by the Congress. We commend your leadership which allowed for the swift passage of TPA by this Committee. We look forward to working with you and the Members of the Committee to pass TPA in the coming weeks. SIA will continue to press for and support further market opening initiatives, including the new round of WTO negotiations. For the new round, it is imperative to continue to make progress toward a further opening of markets under a rules-based system—it is equally vital that we not lose ground in areas like the trade laws where. These combined objectives will best serve the macroeconomic purpose of stimulating confidence and growth in international trade.

The New Round

I believe that the new WTO round can be relied upon to liberalize trade, resulting in significant benefits for the semiconductor industry. Some of the benefits—such as tariff elimination—will be direct. Other benefits in areas such as services liberalization will be indirect. As you well know, the United States is fortunate to have an extremely strong and talented trade negotiating team, and we look forward to working with that team and supporting them in their efforts to secure market opening benefits. Unfortunately, in addition to working on opening markets, our trade negotiators will also be faced with an extremely difficult challenge maintaining strong U.S. trade laws in the face of extreme pressure from our trading .partners to weaken those laws. They will also have to deal with proposals on competition policy that could lead to excessive foreign government intervention abroad that could damage America's most competitive companies.

Maintenance of U.S. Trade Laws

As you know, the antidumping remedy is especially important with respect to the semiconductor industry given the history of injurious dumping in our sector. In the mid-1980's, Japanese dumping of DRAMS drove nine of eleven U.S. semiconductor producers out of this segment of the market; one company was driven out of business altogether. U.S. chipmakers are the most competitive in the world—and consistently are very successful in competition with foreign producers who trade fairly. Fortunately most do, but there are occasions when some engage in dumping, which the current international trading rules condemn, and the results can be devastating. The WTO's antidumping rules foster competition, creating an environment in which success is determined by which companies have the best products, technology, and manufacturing capabilities, and not those who sell below cost of production or price discriminate to gain export market share.

Without the remedies provided by the antidumping law, our industry would not be the world leader it is today. One example of this is an outgrowth of the EPROM dumping case in the mid-1980's. The U.S. successfully defended against Japanese dumping of EPROMs, and U.S. companies remained viable competitors in this market as a result. The current large and fast growing market for "flash" semiconductors evolved from EPROMs and U.S. companies are the most successful in this market. This situation %% would likely be very different today if the EPROM dumping had not been stopped. The same can he said of DRAMS, where today the U.S. is home to only one manufacturer but it is one of the most—if not the most-competitive DRAM company in the world. Without the antidumping laws, this very successful and competitive company could have been driven out of the business.

Manufacturing DRAMS and other advanced semiconductors requires billions of dollars of investments in plant, equipment and research and development—it is vital that the companies that make these investments be able to compete on a fair basis in order to recouptheir enormous investments. The antidumping laws as they are structured today help insure that fair competition is possible. No one can take an objective look at the world's semiconductor market today and not conclude that there is vibrant competition resulting in long term, consistent increases in benefits for consumers. This is a direct result of preserving competitors from the destruction caused by dumping.

The antidumping rules in their current form were the result of heated and arduous negotiations between the United States and other WTO members during the Uruguay Round. They represent a hard fought compromise—one that has worked to allow those companies that operate in a fair and open market economy to compete on an equal footing with their foreign competitors. Regrettably, the United

States was the only WTO member that opposed the reopening of the antidumping rules. The Doha Ministerial Declaration that was ultimately issued states that WTO members "agree to negotiations aimed at clarifying and improving" the WTO agreement on antidumping, but that any negotiations will preserve this agreement's "basic concepts, principles, and effectiveness" and its "instruments and objectives." We must make sure that these principles, instruments, and objectives are preserved in all respects.

New negotiations on antidumping will, I fear, be extremely difficult. All the current proposals for revisions to the antidumping agreement call for significantly weakening the ability of industries in the United States and abroad to use domestic antidumping laws to offset unfair trade practices. A WTO Ministerial Conference memorandum listing issues to be addressed in the negotiations identifies 13 specific issues to be negotiated related to antidumping rules—these proposals are focused on limiting the discretion of national antidumping authorities to determine dumping margins. Such a move threatens to undermine the consensus in favor of market liberalization and it will undermine support for the WTO if countries can engage in dumping that cannot be effectively offset.

Maintaining strong trade laws—which helps insure that America's chipmakers can compete on the basis of their technological capabilities and product offerings—is vital to the health of the U.S. semiconductor industry. Our negotiators will have a tremendous challenge before them during the new WTO round—SIA is ready to support them in any way possible during these negotiations.

Sixty-three members of the Senate went on record just before the Doha Ministerial to state to the President that the trade remedy laws must not be weakened. SIA strongly supports the enactment of Trade Promotion Authority. It passed the House by the slimmest possible margin, 215–214. If the WTO rules governing antidumping narrow the ability of the United States to maintain its antidumping remedy, it is highly unlikely that Congress would approve the results of this Round of negotiations. That would be tragic. But it is avoidable if the U.S. negotiators are firm.

Tariff Reduction and Elimination

The Ministerial Declaration issued at the end of the conference launches a new round of negotiations to reduce or eliminate tariffs on non-agricultural goods, especially on products of export interest to developing countries. While this is potentially very promising, the document notes that the negotiations should allow "less than full reciprocity" for developing countries to reduce tariffs. This precept is inconsistent with so-called "zero-for-zero" negotiations to eliminate tariffs in certain sectors, including information technology. The Information Technology Agreement (ITA)—which eliminates tariffs on information technology products was not specifically mentioned in the Declaration. SIA believes that all WTO members should join the ITA as soon as possible, especially Latin American countries, and we would like to see this goal pursued within the new round. We firmly believe that this is in the best interests of economic development. Undoubtedly, it was a similar exercise of enlightened self-interest that led China to join the ITA as part of its WTO accession process.

Competition Policy

Competition policy is the subject of an ongoing dialogue within the WTO, and negotiations may be launched after the next WTO Ministerial meeting in 2003. Current discussions in the WTO's Trade and Competition Policy working group, meanwhile, are to continue clarifying "core principles" of competition policy, including transparency, nondiscrimination, procedural fairness, and cartels, as well as internal WTO procedural issues, such as providing developing countries with technical assistance to be able to participate meaningfully in the discussions. The discussions are to take account of the needs of developing countries, where ideally competition policy will be used to create properly functioning home markets.

While this area of discussion has the potential to yield benefits, it is also an area that poses enormous risks and must be approached with extreme caution.. Competition policy could be used to make successful foreign. firms vulnerable to attacks on the basis of alleged "abuse of dominant position." It would be very damaging to international trade if new WTO competition policy rules provided WTO sanction for abuses of competition policy measures to protect and promote domestic industries. Most of the competition policy discussion so far has been grounded in theory rather than in a factual examination of the specific barriers to international trade and investments that need to be remedied. Before attempting new international disciplines, it is necessary to understand the dimensions of the problems posed for

trade by the absence of competition rules and/or their enforcement in so many markets around the world.

A decision on whether or not to launch negotiations on competition policy after the next ministerial in 2003, along with negotiations on trade and investment, government procurement, and trade facilitation (the so-called "Singapore issues"), has not yet been finalized. According to the Declaration, these negotiations are to start after the Fifth Ministerial, when a decision on negotiating procedures is to take place—a decision to launch these talks will require a consensus on the procedures.

The chief reason that there no formal international trade organization was formed after the Second World War was the attempt to include provisions that addressed so-called "restrictive business practices". Competition policy negotiations pose a very high risk for the future of an open international trading system. Competition policy can easily become an unregulated substitute for antidumping, where the rules and practices are well defined, and could even undermine the protection of intellectual property, a hard-won gain from the last major round of international trade negotiations.

E-Commerce

Electronic commerce and internet applications have been key demand drivers in the semiconductor industry over the past few years, and it is very important that the rules governing trade in this area remain as open as possible. The WTO Ministerial Declaration recognizes the new challenges and opportunities for trade brought about by e-commerce, and notes the importance of creating and maintaining an environment which is favorable to the future development of electronic commerce.

U.S. negotiators in Doha sought and won a commitment to maintain the moratorium on customs duties through the next ministerial in 2003. SIA stands ready to support our negotiating team in securing a permanent tariff moratorium, and we encourage them to continue pursuing rules that breed competition and growth in this important area. We believe international agreement should be reached to ensure that electronically delivered goods should receive no less favorable treatment than similar products delivered in physical form and that their classification should ensure the most liberal treatment possible. Governments should refrain from enacting trade-related measures that impede e-commerce. Where regulations are necessary, governments should insure that they are transparent, non-discriminatory and employ the least trade-restrictive means available. Further, because of the great growth potential from e-commerce-based services, the U.S. should seek improved market access and national treatment commitments for a broad range of services, such as telecom and financial services, which can be delivered electronically.

Trade-Related Investment Measures (TRIMS) Agreement

U.S. chipmakers often face complex rules and requirements when making investments overseas—they may be required to enter joint ventures or transfer technology in exchange for permission to invest and gain market access. The freedom to engage in direct investment is critical to market access for the chip industry, and to the development goals of developing countries. Unfortunately, existing WTO investment rules do not adequately discipline many of the restrictions placed on investment in various countries.

Improving and expanding WTO rules on TRIMS should be a part of the new round of WTO negotiations. In particular, rules should be adopted to prohibit requirements that foreign firms enter joint ventures, or transfer technology or intellectual property, in exchange for market access. These strengthened provisions should encompass not only measures that are mandatory or enforceable under domestic law or under administrative rulings, but instances where compliance is necessary to obtain any approval or advantage.

Trade and investment is supposed to be the subject of negotiations to start following the next ministerial conference to be held in 2003—launching these talks, though, will require a consensus that may be challenging to achieve. But it is in the interest not only of the UnitedStates, but also of developing countries, to have international rules that protect investors' rights, as such rules will encourage high tech investment in developing countries.

Trade-Related Aspects of Intellectual Property (TRIPS) Agreement

As an R&D intensive industry, we are very concerned about the full and effective protection of intellectual property rights. The TRIPS Agreement negotiated as part of the Uruguay Round represented a major advance in the protection of intellectual property (1P). The agreement began the process of improving worldwide IP protection and allowed for staged implementation over the course of a decade. Some devel-

oping countries have been trying to delay implementation of their obligations. Failure of such countries to fulfill their commitments from the Uruguay Round makes it less likely that the expected commercial gains for the WTO members that have met their commitments will be realized. In addition, failure to adopt promised EP protections is likely to actually undermine the development objectives of the countries seeking to weaken the WTO's intellectual property protections. We support the full implementation of TRIPS as soon as possible by all countries, including developing countries.

Some WTO members also question whether TRIPS implementation requires "transfer of technology on fair and mutually advantageous terms." Any effort to mandate the transfer of technology must be resisted, as such mandates not only weaken LP protection, but will also discourage foreign-direct investment and the commercially-driven transfer of technology that is essential to economic development in many parts of the world.

Dispute Settlement

I am afraid that the WTO Dispute Settlement process represents a growing problem for the international trading system. Unfortunately, it appears to be ineffective against informal barriers to trade of the kind that the semiconductor industry faced with its major competitor in the 1980s and it is curtailing the use of America's trade remedies. The dispute settlement system is legislating new obligations for WTO members that were not agreed at the bargaining table. A more responsible dispute settlement process is badly needed. If it is not achieved, the ability to obtain further market opening could be undermined and the availability of justifiable trade remedies will be further impaired.

The Declaration launches negotiations aimed at "improvements and clarifications" of the Dispute Settlement Understanding based on work done so far and that will continue, with the goal of agreeing on measures by May 2003. The Declaration and the memorandum do not specifically add to the work program currently underway, but allow consideration of "additional proposals." There have been significant problems with Dispute Settlement in the antidumping and countervailing duty law areas, particularly with respect to standard of review, and these problems should be addressed. We are hopeful that these talks will in fact yield the desired improvements to the dispute settlement process.

Taxation

The current WTO rules on adjusting for indirect taxes—which yielded the recent decision against the U.S. Foreign Sales Corporation (FSC) have no basis in economics. Direct (income) taxes and indirect (sales, VAT) taxes do not have a different incidence on goods, and yet they are treated differently by the WTO. The former may not be rebated on export and charged on imports, while the latter may be—this disparity in treatment creates an un-level playing field. Any new round should formally remove the discrimination against the rebate of direct taxes, as this is a significant detriment to the United States and may subject U.S. exports to WTO-sanctioned trade retaliation.

Conclusion

SIA has long supported fair and open trade—where our companies can compete on the basis of market principles, unencumbered by trade barriers, they are tremendously successful. We strongly support a positive new round of trade negotiations, and believe it has the potential to further open markets and improve the global trading system. While we support further opening markets, we urge extreme caution in areas such as antidumping and competition policy improvements in the current international trading system must not be purchased at the expense of the existing rules and current level of liberalization. This is particularly important as we begin to integrate China into the WTO—the U.S. secured a very strong bilateral agreement regarding the terms for China's accession to the WTO, and these tremendous gains must not be undercut in the process of negotiating a new WTO round. SIA stands ready to fully support the negotiating team from the United States Trade Representative's Office and the Department of Commerce—and we believe they can ultimately bring home an agreement that benefits U.S. industry.

With the right results, I am confident that Congress will approve new agreements reached with the strong majorities that once characterized passage of packages of trade agreements. Your support and ours must not be taken for granted, but it should be expected if the advice that you and the private sector give is really listened to. It is our faith in the active involvement of the Congress and the private sector in the trade agreements process, and the strong positive results achieved in the past that give SIA the basis for its strong support of Trade Promotion Authority. America's high technology manufacturers—including semiconductor makers—have

benefited greatly from the agreements concluded in the past utilizing fast track negotiating authority.

PREPARED STATEMENT OF ARTHUR D. WAINWRIGHT

Mr. Chairman and Members of the Committee:

I am Don Wainwright, Chairman and CEO of Wainwright Industries and the current Chairman of the National Association of Manufacturers (the NAM). Wainwright Industries is a family-owned St. Louis manufacturer of stamped and machined products for the automotive, aerospace, home security and information processing industries. Like so many small and medium-sized U.S. firms today, my company and its 275 employees are strongly affected by international trade.

I am pleased to testify this morning on behalf of the National Association of Manufacturers about the importance of ongoing trade agreements. The NAM represents 14,000 manufacturing companies. Ten thousand of the NAM's members, Mr. Chairman, are small and medium-sized firms like mine.

At the outset, I want to commend Ambassador Zoellick for his outstanding leadership as U.S. Trade Representative. In our view he has worked tirelessly and intelligently to move the United States into a stronger position of trade leadership. I want particularly to point out the importance of his achievements at the Doha Ministerial meeting of the World Trade Organization (WTO), where he not only played what appears to be the key role in launching the new round of trade negotiations, but also shaped the talks to favor both furthering trade liberalization and achieving U.S. trade goals.

MANUFACTURING'S ROLE IN TRADE

I would like to begin my remarks by reviewing the importance of manufactured goods in the U.S. trade position, and the importance of trade to our manufacturing industry.

America is the world's largest exporter of manufactured goods. While manufacturing accounts for a little less than one-fifth of U.S. economic output, it accounts for close to 90 percent of total U.S. merchandise exports—nine out of every ten dollars of all the goods we export. Agricultural products account for about 7 percent of U.S. merchandise exports, and minerals for about 3 percent. Similarly, manufactures represent 83 percent of our imports and 74 percent of the U.S. merchandise trade deficit.

Trade is of great importance to America's manufacturing industry. One in every five American factory workers owes his or her job to U.S. exports of manufactured goods. Research by the NAM shows that industries that are heavily engaged in trade are those that pay the highest wages. Employees in trade intensive industries in 2000 (those in which exports and imports combined were more than 40 percent of their domestic output) paid an average annual compensation of more than $61,000—33 percent more than those that are the least trade-intensive.

Until recently, exports have been the fastest-growing part of our industrial economy, and we need to see more of this growth. But standing in the way of further beneficial trade growth are two factors: first, the excessively strong dollar that has appreciated 30 percent since 1997 and severely hampered U.S. firms in world markets—and at home as well. And second, the fact that America's manufacturers face a playing field that is not level. U.S. tariffs on manufactured goods imports are extremely low, making us one of the most open markets in the world—but in many parts of the world, particularly in the rapidly-industrializing developing countries, we face high barriers that limit the sale of U.S.-made products. That is why the agenda of new trade negotiations is so important to our future growth and prosperity.

OVERVALUED DOLLAR

As important as the agenda of trade negotiations is, American manufacturers' most urgent need is for the U.S. government to end the overvaluation of the dollar that is crippling our ability to export. America's manufactured goods exports have plunged over $115 billion in the last 18 months—largely due to the fact that the dollar has risen 30 percent against major currencies. The dollar is now at its highest level in 16 years.

Mr. Chairman, that 30 percent increase in the cost of the dollar has the same effect on us as imposing a new 30 percent tariff on the products we make. The result has been devastating. The companies that are being hardest hit are those that have devoted the most energy to selling abroad—particularly in the high technology

areas. I was appalled to learn that since August 2000 America's exports of advanced technology products (electronics, telecommunications, aircraft, etc.)—have fallen 25 percent. America's best and most productive companies are being affected. They include firms that have received the coveted President's Export Excellence award and companies that have been cited as the most innovative in America.

As the owner of a small company, I was also saddened to see that the NAM's annual survey of small and medium-sized firms shows that the proportion of those who export at least 25 percent of their production, after rising throughout the 1990's has now fallen to the lowest level since the survey was started in the early 1990's.

The NAM has been seeking action on the part of the Administration to work with other major countries to end the overvaluation of the dollar and undervaluation of other major currencies, and I hope the committee takes a closer look at this.

TRADE PROMOTION AUTHORITY

Turning to the trade policy agenda, Mr. Chairman, let me stress the NAM's view that effective Trade Promotion Authority (TPA—or "fast track") is vital if the United States is to negotiate good trade agreements. TPA is critical to advancing and completing the various trade initiatives we are discussing in today's hearing. We are convinced our negotiators cannot obtain deep cuts in other countries' trade barriers unless our trading partners can be reasonably certain that the deals they strike are final and will not be changed by the U.S. legislative branch.

The NAM urges the Senate to take action to approve a TPA bill on a bipartisan basis at the earliest possible point this legislative session. The bill reported out by your committee by a strong bipartisan vote would seem to be exactly the type of legislation that can garner strong support on both sides of the aisle for final passage. We hope members of this committee will urge the rest of the Senate to move promptly, and that we can see TPA on the floor of the Senate, if possible, by the end of this month.

We recognize the relationship between effective trade adjustment assistance (TAA) and new trade agreements, and are supportive of an improved approach to TAA. We believe it is essential, though, that such an initiative be developed on a basis that can garner strong bipartisan support and also be reflective of budgetary realities.

THE DOHA DEVELOPMENT AGENDA

The NAM welcomes the launch of the Doha Development Agenda, the new round of multilateral trade negotiations initiated at the World Trade Organization (WTO) Ministerial meeting in Doha, Qatar. In this era of increased globalization and unprecedented economic integration, continued international engagement and strengthening of global trade rules is vital to creating a modern world in which goods, services and capital can be more freely exchanged to all societies' mutual benefit. The Uruguay Round was an important step in this regard. But it only took us so far. There is unfinished business—and much of it will be tackled in the Doha agenda.

The negotiations are called the "Doha Development Agenda" for good reason—it is time that the developing countries, particularly the least developed, become more integrated into the global trading system and obtain more of the gains from trade. The NAM fully endorses this, but we want to stress that many of the gains to developing countries will come from reducing their trade barriers and opening their own markets—just as we have gained from our own market openness.

The NAM recognizes that at the center of the WTO negotiations is the effort to address long-standing barriers to trade in agriculture, a sector which has not benefited from liberalized trade and global rules to the extent enjoyed by the manufacturing sector. We fully support the spotlight on agriculture. However, the focus on farm trade must not be to the exclusion of a priority on addressing the substantial barriers to manufacturers' trade that we still face.

Given manufacturing's overwhelming role in America's global trade portfolio, a considerable portion of the potential gains for the United States from the new multilateral negotiations will come from aggressively attacking the remaining stiff barriers our industrial exports face overseas.

Industrial Tariffs—The most critical trade barrier that American manufacturers face when selling abroad are the extremely high tariffs in the growing new markets of the developing world, particularly Latin America, India and South East Asia. High tariffs are a major obstacle preventing the type of open markets we want to see, though we recognize that market access is affected by other WTO rules and disciplines as well.

Years of successive trade rounds under the former GATT (General Agreement on Tariffs and Trade) have brought most industrial nation tariffs to low levels—but the same is not true for developing countries. This is important to the NAM, because developing countries already account for 40 percent of our manufactured goods exports. Reducing their trade barriers would provide a huge source of future export growth for U.S. firms, and would be of enormous benefit to the further expansion of developing country economies. The record is clear that the countries that liberalize the most grow the fastest.

Attached to my testimony is a table from a recent WTO market access study, making clear the size of the task that faces us in industrial trade. For example, while U.S. tariffs on machinery average 1.2 percent and European Union tariffs average 1.8 percent, the average bound tariff rate for these products in Southeast Asia is over 20 percent and in Latin America is over 35 percent.

Reducing these tariffs will be very difficult, and the NAM has serious concerns about the ability of traditional negotiating methods to get the job done. First, as I have noted, our tariffs are already very low, except in a few sensitive sectors such as textiles and footwear. Thus we have relatively few poker chips to bring to the table.

Second, while multilateral tariff negotiations have always been conducted on the basis of "bound rates" (the negotiated maximum rate beyond which a country may not raise its tariff), most developing countries actually apply tariffs that are much lower than their bound rates—frequently half the amount. This is because most bound rates are simply too high to allow these countries to import the goods they need for their economies. But this means that they can raise their applied tariffs to the bound rate at will without owing any compensation. Additionally, when they negotiate, they insist on negotiating from the bound rates—not the applied rates. Thus most developing nations could negotiate tariff cuts that are 50% of their existing bound rates—and would still have bound rates that are at or above the rates they actually apply. Under these circumstances, the United States would in effect gain nothing from the negotiations.

One way around this, of course, would be to negotiate from applied rates, not bound rates. However, the developing countries have been very resistant to this idea—wanting to be compensated for reducing rates from their high bound levels, as this would enable them to claim a bigger "bill" in the negotiations.

We could solve this apparent dilemma by pursuing sectoral trade liberalization along the lines of the "zero-for-zero" negotiations in the Uruguay Round. The principle would be to obtain a critical mass of countries that account for the bulk of world trade in a sector and obtain agreement among these countries to bring their tariffs in the sector to zero. An excellent example is the recent WTO Information Technology Agreement (ITA), in which 47 countries accounting for 93 percent of world trade in information technology products eliminated duties on these products.

The NAM believes this is probably the most practical way to proceed, and has formed a Zero-for-Zero coalition to urge U.S. negotiators to make this a major U.S. proposal in Geneva. Attached to my testimony are four industry sector papers discussing specific industry interests in the zero-for-zero approach. We should also seek to expand the product and country coverage of the existing Information Technology Agreement.

The approach builds on a solid foundation. It has been shown to be practical and to have worked well. It solves many of the problems associated with more traditional approaches, including setting a common end point—tariff elimination—regardless of the beginning point. It gives the United States appropriate credit for the value of its market access concessions—the high-income U.S. market—which is lost in terms of unrealistic tariff starting points. It also empowers competitive industries to build a global tariff-free market for their products, maximizing the overall efficiency of the U.S. economy. Previously, Congress in the Uruguay Round Agreements Act had endorsed this approach.

Moreover, the approach offers the opportunity of moving rapidly. All 140 plus members of the WTO do not have to agree—only the countries that want to participate in the arrangement. If they reach early agreement, the tariffs can be eliminated on an accelerated provisional basis while the rest of the Doha talks continue.

The Doha ministerial declaration makes explicit provision for such early arrangements. Naturally, they would be counted as part of the overall balance of concessions at the conclusion of the entire talks.

The key will be to engage enough developing countries in the initiative, and this is where U.S. negotiators will have to focus considerable energy. In today's globalized world, developing countries need to realize that high tariffs are a severe drag on rapid growth. Industrial tariff walls keep out equipment these nations need to modernize their industrial bases and become more competitive. Lower industrial

tariffs in the developing countries is not just in our interest—which it by all means is—but in theirs as well.

Trade among the developing nations is already important, and can be even more so. Between 1990 and 1999, the share of intra-developing country trade grew from 29 percent of developing country manufactures trade to 34 percent. The biggest barriers developing countries face in further expanding manufactured goods exports are not in the industrial countries, but in other developing countries—and a successful zero-for-zero initiative would be a boon for raising production and income in developing countries.

Mr. Chairman, for the new round of industrial tariff negotiations to produce concrete results for the U.S. economy in a timetable that is meaningful, the NAM believes it is essential that U.S. negotiators make the achievement of early sectoral agreements a central element of its overall negotiating strategy. From a political perspective, the early results from zero-for-zero sectoral negotiations could be critical in securing both domestic and developing countries' support for the larger Round. I hope the Committee will keep this in mind as it provides advice to the Administration.

Transparency in Government Procurement—Another Doha priority for the NAM is achieving 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 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 is disappointed that the Doha Declaration appears to push off negotiations on transparency in government procurement until after the next WTO ministerial in 2003. In the interim, we urge the U.S. Government to press forward on developing the disciplines to be included in an agreement on government procurement. In addition, we urge the U.S. Government to work with other WTO Members to ensure that technical assistance on government procurement transparency is available to countries that need it.

Business Facilitation—Another area in which the start of negotiations apparently will be delayed is that of business 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 like my firm, are small and medium-sized and see current trade rules as expensive trade barriers. We hope that progress here, as in government procurement transparency, will not have to wait until 2003. 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.

Foreign Sales Corporation Dispute—The WTO's recent appellate ruling against the Extraterritorial Income Exclusion Act (ETI), the successor to the Foreign Sales Corporation (FSC) tax regime, is unfortunate. The ruling means WTO rules effectively favor the European territorial tax system over the United States' world-wide taxation regime. It will be difficult to alter ETI so it is consistent with WTO rules without harming U.S. industry's international competitiveness. The low-key, diplomatic manner in which Ambassador Zoellick and his EU counterpart have handled this sensitive issue up to now is admirable. Some mutually agreeable resolution must be found so the issue does not threaten broader U.S.-EU cooperation in achieving a successful new round.

One of the options that must be pursued is the possibility of settling the dispute as part of a larger examination in the Doha negotiations of how the WTO treats distinct tax regimes. We believe that the Doha Ministerial Declaration could accommodate such negotiations, and I applaud the Chairman and Ranking Member for including this objective in the TPA bill reported out of Committee.

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.

While the separate declaration in Doha on TRIPs and Public Health did not legally alter TRIPs, it did clarify that developing countries that confront significant health challenges like HIV/AIDS may utilize the flexibilities in the agreement to help meet their public health needs.

We certainly encourage both developed and developing country governments to intensify efforts to address unmet health needs in the world's poorest countries. It is important, though, that such solutions not be sought through undesirable amendments to the TRIPs agreement.

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.

Investment—The NAM urges caution regarding consideration of a multilateral investment agreement under WTO auspices at this time. We are concerned that any agreement that could obtain consensus at the WTO would contain disciplines and investor protections significantly weaker than those currently present in U.S. Bilateral Investment Treaties (BITs) or the North American Free Trade Agreement (NAFTA). At the same time, however, we believe there should be a focus on ensuring that the Uruguay Round Agreement on Trade-Related Investment Measures (TRIMs) is fully implemented, as there has been substantial backsliding by developing countries in some areas. While understanding the need for flexibility, the basic disciplines that forbid local content and export performance/trade balancing requirements must be reinforced.

Effective U.S. Trade Laws—Before ending my remarks on the Doha agenda, Mr. Chairman, let me state that the NAM favors the vigorous enforcement of U.S. trade laws to counteract unfair foreign practices and to encourage harmonization internationally to help achieve greater equity in competitive conditions and international trade practices. The NAM supports rules-based trade and urges the Administration and the Congress to work together to maintain the effectiveness of WTO-consistent U.S. trade remedy laws. Public confidence in an open trading system requires ensuring a level playing field for American firms in which market-distorting practices can continue to be addressed effectively. U.S. trade laws need to remain strong and to be implemented in a way that benefits the U.S. economy.

We do not believe, however, that Ambassador Zoellick and the U.S. team were wrong to agree to a discussion of trade rules in the Doha Agenda. We think, in fact, that they did a good job there. They were able to divert a full-fledged attack on U.S. trade laws by broadening the discussion into an examination of ways to strengthen the disciplines of existing agreements and of ensuring that other countries' trade remedy practices are fair and transparent.

OTHER ONGOING NEGOTIATIONS

In agreeing on trade priorities last year, the NAM's Board of Directors urged a full program of bilateral, regional, and multilateral negotiations as the most effective strategy for reducing the barriers U.S. producers face around the world.

We are pleased that such a strategy is being implemented, and we urge that these negotiations proceed as rapidly as is consistent with the full achievement of U.S. objectives.

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. We look forward to the opportunity to consult closely with the Administration and the Congress as the modalities for the critical market access phase of those talks are developed this spring, so that access proposals can actually be entertained later in the year.

We concur with Ambassador Zoellick's efforts to create a "competition in liberalization" among a wide range of multilateral, regional and bilateral trade-enhancing negotiations, with the United States at the center of them all. The FTAA is the critical regional piece of that strategy, and it is imperative that the process stay on track for conclusion by early 2005. 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. Progress toward a region-wide investment

agreement as part of the FTAA is more promising than a global investment accord at the WTO, so long as the disciplines agreed to remain at the high level contained in U.S. Bilateral Investment Treaties (BITs) or NAFTA, rather than lowest common denominator.

To underscore the importance of the FTAA, I would like to tell the committee 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 NAM also looks forward to the conclusion of comprehensive agreements with Chile and Singapore later this year. We are hopeful that the strict disciplines, expanded access, and forward-looking nature of these agreements will serve as precedents for additional agreements, such as the one President Bush is considering with Central America, or regional accords such as the FTAA. Additionally, a world-class agreement with Singapore is important as the first step in obtaining further trade agreements in the Pacific. We note in particular the recent expression of interest among China and Southeast Asian nations for their own free trade agreement. We could not afford to be frozen out of the Pacific by such an agreement, and must start looking at U.S. free trade agreements in the region.

The bilateral negotiations, of course, are also important in themselves—not just as stepping stones to additional negotiations. The NAM, for example, has examined our trade situation in Chile, and has found that the absence of a free trade agreement with Chile is costing us $800 million in lost exports every year—an amount that would employ 10,000 Americans. The reason for this loss, as our study documents, is that trade is being diverted away from U.S. producers to producers in countries that already have trade agreements with Chile—such as Canada, Mexico, Argentina, and Brazil. I ask that a copy of the NAM study be included in the record of this hearing.

CONCLUSION

Mr. Chairman, in concluding my remarks, let me reiterate how important success in these trade agreements is to America's manufacturers. As I have explained, the playing field is not level; and we want it to become so. Effective agreements can do that, providing enormous benefits for U.S. firms and workers, and for raising economic growth and living standards around the world—particularly in developing nations.

Thank you, Mr. Chairman.

Attachment: Excerpt from WTO Special Study: Market Access: Unfinished Business

Table II.2. Bound tariffs on industrial products. Simple averages by country and MTN category
(Percentage)

Import markets	1 Wood, pulp, paper and furniture	2 Textiles and clothing	3 Leather, rubber, footwear and travel goods	4 Metals	5 Chemicals and photographic supplies	6 Transport equipment	7 Non-electric machinery	8 Electric machinery	9 Mineral products and precious stones and precious metals	10 Manufactured articles not elsewhere specified	11 Fish and fish products
North America											
Canada	1.3	12.4	7.6	2.8	4.5	6.8	3.6	5.2	3.1	4.2	1.8
United States	0.6	8.9	8.4	1.8	3.7	2.7	1.2	2.1	3.3	3.0	2.2
Latin America											
Argentina	29.4	35.0	35.0	34.4	23.5	34.6	34.9	34.7	32.8	33.7	34.5
Brazil	27.7	34.9	34.7	33.4	22.7	33.6	32.6	31.9	33.5	33.5	33.4
Chile	25.0	25.0	25.0	25.0	25.0	24.9	25.0	25.0	24.9	25.0	25.0
Colombia	35.0	36.8	35.2	35.0	35.0	35.8	35.0	35.0	35.1	35.0	47.7
Costa Rica	44.2	45.1	45.9	44.5	43.5	49.6	44.2	43.3	44.6	44.7	46.3
El Salvador	35.3	38.6	40.8	35.0	37.7	35.8	32.6	34.6	37.7	38.2	45.0
Jamaica	50.0	50.0	50.0	50.0	50.0	50.0	50.0	50.0	50.0	50.0	50.6
Mexico	34.0	35.0	34.8	34.7	35.2	35.8	35.0	34.1	34.4	34.6	35.0
Peru	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Venezuela	33.7	34.9	34.5	33.6	34.1	33.6	33.2	33.9	34.1	33.4	33.8
Western Europe											
European Union	0.7	7.9	4.8	1.6	4.8	4.7	1.8	3.3	2.4	2.7	11.8
Iceland	11.9	9.7	13.8	6.8	2.8	17.1	7.0	19.4	11.5	21.9	3.6
Norway	0.4	8.5	2.2	1.1	3.0	3.3	2.7	2.7	0.7	2.2	7.3
Switzerland	2.1	4.6	2.0	1.1	1.5	2.2	0.6	0.7	1.5	1.3	0.5
Turkey	40.5	80.3	79.9	30.4	29.0	25.8	23.7	26.6	39.4	43.3	26.2
Eastern Europe											
Czech Republic	5.5	6.2	3.8	3.8	4.0	6.2	3.8	4.2	3.4	3.6	0.2
Hungary	5.4	8.1	6.7	4.9	5.5	15.9	8.4	9.5	5.0	7.8	17.1
Poland	8.0	13.1	11.9	9.9	8.7	16.1	8.9	9.7	6.9	11.6	16.3
Romania	31.4	32.9	30.7	31.7	30.6	32.1	29.5	27.3	32.2	29.3	28.1
Slovak Republic	5.5	6.2	3.8	3.8	4.0	6.2	3.8	4.2	3.4	3.6	0.2
Asia											
Australia	7.0	28.8	17.5	4.5	9.2	15.1	9.1	13.3	7.0	7.0	0.8
Hong Kong, China	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
India	56.4	87.8	67.8	58.3	44.1	53.9	36.2	44.8	47.2	72.4	68.6
Indonesia	39.6	39.9	39.6	36.4	37.4	58.5	36.6	38.7	39.2	36.9	40.0
Japan	1.2	6.8	15.7	0.9	2.4	0.0	0.0	0.2	1.0	1.1	6.2
Korea, Republic of	4.8	18.2	16.7	7.7	6.7	24.6	11.1	16.1	10.4	11.4	19.1
Macau, China	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Malaysia	19.8	20.7	19.1	14.2	15.4	29.8	10.9	14.1	14.7	12.6	14.5
New Zealand	4.5	21.9	19.1	11.2	6.1	17.0	15.1	16.1	7.6	11.7	2.8
Philippines	31.8	27.7	32.7	22.9	22.6	26.1	22.0	26.2	28.5	29.5	29.4
Singapore	3.1	7.8	3.4	3.2	5.0	4.4	4.3	4.9	1.2	1.2	9.8
Sri Lanka	32.6	45.0	43.0	16.6	15.8	18.3	12.8	20.4	26.2	27.1	49.2
Thailand	21.3	29.2	34.1	25.6	29.3	38.5	23.4	30.5	25.9	29.5	12.5
Africa											
Cameroon	21.8	22.8	21.2	15.9	11.6	14.9	12.2	16.8	18.5	22.9	23.8
Chad	21.8	22.7	21.2	15.9	11.6	20.2	12.2	16.8	18.5	22.9	23.8
Gabon	15.5	15.1	15.0	15.2	15.2	15.0	15.2	15.0	16.1	16.5	15.0
Senegal	17.6	16.1	16.3	15.1	15.2	14.1	6.7	7.2	15.1	15.0	12.9
South Africa	9.2	27.7	23.1	14.1	13.9	23.3	12.0	17.4	11.5	14.8	22.5
Tunisia	34.2	56.3	36.1	25.6	26.5	25.5	25.2	29.1	28.9	32.5	41.2
Zimbabwe	12.6	21.4	13.1	9.1	5.5	10.1	6.3	12.3	7.6	15.5	3.1

Source: WTO IDB, Loose Leaf Schedule and national custom tariffs. See Technical notes to this chapter for more details.

Attachment 2.

Sector-Specific Zero-for-Zero Tariff Negotiation Proposals

From the NAM Zero-for-Zero Tariff Coalition

February 2002

National Electrical Manufacturers Association (NEMA) Seeks Zero-For-Zero Tariff Elimination

The world-wide elimination of tariffs on electrical products is a basic NEMA goal. We therefore urge the U.S. to pursue tariff elimination for electrical products in all fora, including the new round of World Trade Organization negotiations on reduction and elimination of tariffs on non-agricultural goods, or via regional groups and/or other opportunities as they arise. In addition, WTO members should agree to implement so-called "zero-for-zero" agreements to eliminate tariffs on electrical products and medical diagnostic imaging equipment as soon as possible, preferably on an early provisional basis with immediate effect until these "Free" tariff rates are bound into the new round's final concluding agreement.

NEMA also urges the U.S. to push for completion of the second phase of the Information Technology Agreement (ITA-2), which would eliminate tariffs on a wide range of IT items, including some NEMA products. NEMA also supports continued efforts by U.S. officials to expand the membership of the existing ITA and to negotiate accelerated tariff elimination for electrical products under the North American Free Trade Agreement (NAFTA).

NEMA is the largest trade association representing the interests of U.S. electrical industry manufacturers. Its mission is to improve the competitiveness of member companies by providing high quality services that impact positively on standards, government regulation and market economics. Founded in 1926 and headquartered in Rosslyn, Virginia, its more than 400 member companies manufacture products used in the generation, transmission, distribution, control, and use of electricity. These products, by and large unregulated, are used in utility, industrial, commercial, institutional and residential installations. Through the years, electrical products built to standards that both have and continue to achieve international acceptance have effectively served the U.S. electrical infrastructure and maintained domestic electrical safety. NEMA's Medical Products Department represents manufacturers of medical diagnostic imaging equipment including MRT, C-T, x-ray, ultrasound and nuclear products. Annual shipments exceed $100 billion in value.

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U.S. FOREST AND PAPER PRODUCTS INDUSTRY'S TARIFF NEGOTIATING OBJECTIVES

The U.S. forest and paper products industry supports the decision by trade ministers at the World Trade Organization (WTO) ministerial conference in Doha, Qatar making industrial tariff negotiations a key element in the newly launched trade round. The Ministerial Declaration provides broad latitude for the tariff negotiations, opening the door for early "zero-for-zero" agreements eliminating tariffs in particular industry sectors. Forest products -- paper and wood -- should be prime candidates for early sectoral tariff negotiations in the Doha Development Round, especially since a number of developing countries in Asia and South America have burgeoning world-class, export-oriented forest products industries.

It is important that the U.S. Government make the early achievement of zero tariffs on wood and paper products an urgent priority. Preparatory work should begin immediately under the auspices of the World Trade Organization (WTO) and be conducted with sufficient expedition to ensure that an agreement can be achieved and implemented at an early date. The goal should be to conclude the first phase of negotiations within one year of the Doha ministerial. It is critical that developing countries fully participate in the industrial tariff negotiations and that they commit to the same product coverage and phase out periods as do developed countries. The early start of industrial tariff negotiations will provide a concrete response to skepticism about the WTO's ability to deliver meaningful trade liberalization. Such confidence is essential to build political support both in the United States and around the world to ensure successful negotiations in the new round.

The elimination of foreign tariffs has consistently been the number one priority for the U.S. forest products industry. Unfortunately, the Uruguay Round Agreement didn't provide for the substantive reduction in global forest products tariffs the industry was seeking. Under that agreement, developed countries committed to eliminate paper tariffs over a lengthy 10-year period (by January 1, 2004) rather than the normal 5-year phase out period. Moreover, developing countries didn't make any commitments to reduce tariffs and continue to maintain very high bound tariff rates. As a result, the U.S. forest products industry lost ground in relation to its major global competitors, and particularly Brazil, Indonesia, and Malaysia. A number of countries in Europe, Asia and South America have used tariff walls to build world-class pulp and paper projects, at times supported by government financial aid, which compete with U.S. suppliers both at home and abroad.

The continuing lack of any progress on eliminating wood tariffs since 1994 has put the U.S. forest products industry at a competitive disadvantage and has fostered the expansion of production capacity and employment outside of the United States. Wood product tariff elimination in the following countries and regions should be a priority in 2002: Japan; Chile; Korea; Indonesia; Malaysia; MERCOSUR; Central American; China; Eastern Europe; India. The U.S. wood products industry is also greatly disadvantaged by tariff escalation practices -- when a country establishes a low or zero tariff for logs and other raw materials, but maintains high tariffs on higher-value, processed wood products (e.g. lumber, plywood, veneer, doors, windows, etc.). This practice becomes protectionist when utilized by economically developed countries, such as Japan, or by countries with mature industries. It denies equitable market opportunities because it undermines the comparative manufacturing advantage of highly productive, internationally competitive, exporting industries.

While no progress was made on multilateral tariff elimination since the Uruguay Round, Free Trade Agreements (FTA's) negotiated by U.S. trading partners have a created a web of arrangements which effectively shut competitive U.S. suppliers out of fast growing markets. As such, the elimination of tariffs on wood and paper products should be identified as an early deliverable from U.S. FTA negotiations, particularly those with Chile and other FTAA members. In the case of Chile, the elimination of wood and paper tariffs should go into effect immediately, to put U.S. suppliers on an equal footing with Canadian companies, who have benefited from zero tariffs since 1997.

TOYS: Zero-for-Zero Initiative

U.S. toy companies are world's leaders

U.S. toy companies are the largest and most competitive in the world. The U.S. toy industry achieved this position by combining high value-added operations in the United States, such as product design, engineering and strategic marketing, with substantial production overseas. Even those toys made by U.S. companies overseas incorporate important U.S. value contributed by the industry's 31,000 U.S. workers.

With only 3 percent of the world's children living in the United States, U.S. toy companies must turn increasingly to foreign markets for industry growth. In 2000, sales by U.S. toy companies in the domestic U.S. market totaled $23.0 billion, while their sales in foreign markets totaled $5.5 billion.

High tariffs block access to foreign toy markets

In the Uruguay Round of WTO trade negotiations, the United States, European Union, Canada, Japan and Korea reached a zero-for-zero agreement on toys. Although the United States eliminated its tariffs on all toy categories as part of this agreement, the other four countries excluded several major categories from their commitments. For example, even after the staged elimination of Uruguay Round tariff concessions is complete in 2004, the EU and Japan will still maintain tariffs on categories accounting for over half of their respective imports of toys.

Of even greater concern are the high tariffs – typically 20 percent or more – maintained by most of the world's major developing countries. In addition, some countries, such as Brazil and Argentina, maintain high safeguard or other temporary tariffs on toy imports.

Global toy industry backs new zero-for-zero deal on toys

The parameters of a new zero-for-zero agreement on toys are already in place. In November 1998, APEC leaders endorsed an early voluntary sectoral liberalization proposal reflecting support from 15 member country toy industries for eliminating tariffs on toys. Since then, EU toy producers also registered strong support for such an initiative, rounding out the "critical mass" of geographic support that would be needed to reach a zero-for-zero deal on toys.

Zero-for-Zero and the Distilled Spirits Industry

International trade helps fuel the spirits industry's growth

Since 1990, U.S. exports of distilled spirits have doubled, growing to $478 million in 2000. Exports will continue to fuel the industry's growth: for the first 10 months of 2001, exports in dollar terms were 10% higher than in the comparable period in 2000. Bourbon, including Tennessee Whiskey, accounts for 64% of the total.

The U.S. spirits industry has benefited greatly from the zero-for-zero initiative

Distilled spirits (HTS 2208) were included in the Uruguay Round's zero-for-zero negotiations, in which the United States and several of its major spirits trading partners, including the European Union, agreed to eliminate their tariffs on substantially all spirits. U.S. exports of Bourbon have increased 36% since the Uruguay Round agreements entered into force in 1995 – reaching $303 million in 2000.

Numerous tariff barriers remain

Notwithstanding the success of the zero-for-zero initiative among a number of industrialized nations, many WTO members, and most developing countries, continue to impose substantial tariffs on imported distilled spirits. Advancing the zero-for-zero initiative will increase the competitiveness of U.S. spirits in the world's most promising markets by eliminating these excessive and burdensome tariff barriers.

- India imposed additional duties ranging from 75% to 150% on imported spirits on April 1, 2001, on top of its base tariff of 210%. Its effective tariff rates on distilled spirits currently range from 464% to 706%.

- The Central and East European countries seeking to become members of the European Union have entered into agreements giving spirits products made in EU member countries significant tariff breaks. For example, Bulgaria's tariff on EU spirits is half the rate applied to U.S. spirits. EU spirits enter the Czech Republic duty-free, while U.S. spirits are subject to tariffs of up to 56 percent. European spirits are exempt from Poland's extremely restrictive tariff-rate quota, while a bound rate of 268 percent applies to out-of-quota U.S. spirits.

- The EU is negotiating a free trade agreement with the Mercosur countries (Argentina, Brazil, Paraguay and Uruguay) that will allow their spirits to enter these markets duty free. U.S. spirits will face a 23% tariff.

- Canada and Mexico have negotiated free trade agreements with Chile that guarantee tequila and Canadian whisky duty-free entry into the Chilean market. U.S. spirits are subject to a 7% tariff.

- Australia applies a tariff of 5%. The administrative cost of compliance with this nuisance tariff is very high, and the government has conceded that it should be eliminated, but only in the context of multilateral negotiations.

- South Africa applies a 5% tariff on imports of distilled spirits. However, its WTO bound rates range from 67 percent to 597 percent *ad valorem*. Turkey eliminated its tariffs on an applied basis, but its bound rate remains at 88 percent. These discrepancies between the applied and bound rates inject a high degree of commercial uncertainty, as countries may, at any time, significantly raise their applied rates without warning, disrupting trade.

Prepared by the Distilled Spirits Council of the U.S. (DISCUS)
February 2002

National Association of Manufacturers

ABSENCE OF CHILEAN TRADE AGREEMENT COSTING U.S. OVER $800 MILLION PER YEAR

Sharp Market Share Loss Underscores Urgent Need for Free Trade Agreements

U.S. exports are being displaced in Chile as Chilean buyers switch away from U.S.- made products and increasingly buy goods from suppliers in countries with which Chile has free trade agreements. The U.S. has no free trade agreement with Chile, but one is currently under negotiation.

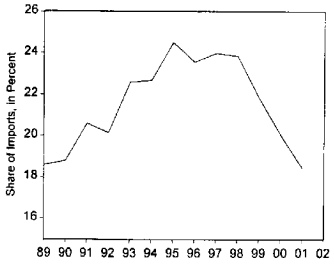
The United States has lost 6 percentage points of the Chilean import market since 1997 – one fourth of America's share of the Chilean market. This drop has resulted in the loss of over $800 million in exports to Chile this year, at an annual rate.

Countries entering into or implementing trade agreements with Chile in 1997 showed a sharp 8 percentage point gain in market share that more than offset the U.S. loss.

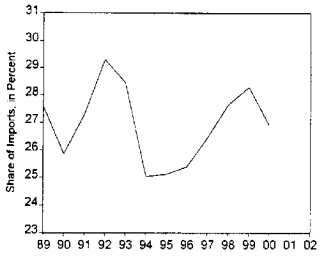
Using methodology developed by the U.S. Department of Commerce for determining the labor content of U.S. exports, the more than $800 million decline represents the loss of over 10,000 American job opportunities.

Manufactured goods comprise 93 percent of U.S. exports to Chile. U.S. market share losses in Chile are particularly sharp in paper products, fertilizers, heating and other equipment, mineral fuels, and plastics -- though wheat, corn, and soybeans also had big losses.

U.S. Share of Chile's Imports Falls Sharply After 1997 ...



... While U.S. Share of Rest of South America Stays Relatively Stable



Sources: International Monetary Fund.
Global Trade Information Services, Inc. (GTIS)

SHARE LOSS

Until 1997, U.S. products were highly competitive in Chile and captured a growing share of Chile's import market. After 1997, though, the U.S. share of Chile's import market went into a sudden and sharp decline -- dropping from 24 percent of the market to just over 18 percent. The United States did not suffer a similar loss in the rest of South America.

Major countries with which Chile maintains free or preferential trade agreements picked up 8 percentage points of Chile's import market during the time the U.S. was losing share. Gains were particularly sharp for the Mercosur countries, which picked up share almost across the board. Canadian and Mexican share gains in Chile were more concentrated.

Chile's global imports in 2001 are running at an annual rate of $15.3 billion. Of that, $2.8 billion is imported from the United States -- 18.4 percent of the total. If the United States had not lost market share, and had maintained its 1997 import share of 24 percent, Chile's imports from the United States would be about $3.7 billion -- $850 million more than their actual amount. This is an amount about one-third of total U.S. exports to Chile.

CHILE'S FREE TRADE AGREEMENTS

Chile, the most free-trade oriented economy in South America, has been negotiating free trade agreements (FTA's) with a growing range of countries. The year 1997 was a big one for Chile. That was the first year in which Chile's preferential trade agreement with Mercosur (a country grouping comprised of Argentina, Brazil, Paraguay and Uruguay) went into effect; the first year in which the Chile's FTA with Mexico eliminated substantially all tariffs; and the year in which Chile's FTA with Canada began to be implemented.

These agreements put U.S. products at a significant disadvantage. For example, Canada's share of Chile's imports has risen every year since 1997, "while the market share of Canada's competitors in Chile has steadily fallen,"stated the Canadian Department of Foreign Affairs and International Trade in its May 2001 review of that agreement.

Chile maintains a uniform 8 percent tariff (tax on imports) on products that originate in countries with which it has no preferential agreements. This includes the United States, so all U.S. products shipped to Chile have an extra 8 percent tacked on to their price when they enter Chile.

Imports from countries having free trade agreements with Chile, of course, pay a reduced duty or no duty at all. This price disadvantage of up to 8 percent poses a significant disincentive to the sales of U.S. products in Chile. The effect depends on the availability of substitutable products from other countries. American products that have no competition from producers in countries having trade agreements with Chile would not be expected to show much effect.

Economists would expect the displacement effect to be greatest for those U.S. products that face competition from similar products produced in countries having trade agreements with Chile, particularly when products are relatively undifferentiated and are highly price-sensitive.

The actual pattern of losses follows these expectations quite closely. U.S. losses, for example, are particularly evident in highly price-sensitive products such as paper, grains, and fertilizers. These types of products are difficult to differentiate from their competition, and the shift of a couple of percentage points in price makes a huge difference to buyers.

THE U.S. FTA WITH CHILE: DELAYED

American firms and workers have suffered these losses needlessly, for the United States could have had its own free trade agreement with Chile in place by 1997. The United States first contemplated an FTA with Chile in 1995, and in fact Chile was one of the reasons the Administration sought so-called "fast track" trade negotiating authority from the Congress in 1997. Foreign countries are reluctant to conclude agreements that take them to their bottom line unless they know that Congress cannot subsequently amend them in ways that change the fundamental balance of concessions negotiated by the Administration. Failure to obtain "fast track" derailed chances for a negotiation and left U.S. exporters at a disadvantage.

In the closing months of the Clinton Administration, however, both Chile and the United States agreed to begin negotiating a U.S. - Chile FTA. Those negotiations have been proceeding and are scheduled to be concluded by the end of 2001. Manufacturers are hoping the agreement will result in the quick elimination of tariffs on industrial goods, putting an end to the discrimination against American-made products.

EFFECTS ON PRODUCT GROUPS

U.S. export losses to Chile are evident in both manufactured and farm products, though since 93 percent of U.S. exports to Chile are manufactured goods, it is these goods that are incurring the vast bulk of the losses. Nevertheless, there are some significant losses in farm products as well.

Farm Products

Wheat -- U.S. wheat lost a huge amount of the Chilean import market. The U.S. share of Chile's wheat imports fell from a peak of 46 percent to only 11 percent so far in 2001. That share loss means that instead of exporting $15 million of wheat to Chile this year, U.S. wheat farmers are exporting only $3 million – a loss of $12 million of wheat exports. This loss is directly attributable to Canada, whose share of Chile's wheat imports more than doubled, from 33 percent to 69 percent. Canada's $12 million share gain, in fact, almost precisely offset the U.S. loss.

Corn – The U.S. share of Chile's corn imports fell from 40 percent of the market in 1997 to only 5 percent this year, putting U.S. corn exports to Chile at an annual rate of $5 million so far in 2001. If the U.S. share had stayed at the 1997 level, America's exports of corn to Chile would be $26 million this year -- meaning U.S. corn growers are losing $21 million in Chile. Argentina was the big gainer, picking up all of the U.S. share loss.

Soybeans – America's 55 percent share of the Chilean import market for soybeans became zero in 2001, representing a $10 million loss. Argentina's share of this market rose from 35 percent to 56 percent, and Brazil's share rose from 0 percent in 1997 to 35 percent this year.

Manufactured Goods

Losses totaling hundreds of millions of dollars are spread throughout the whole array of manufactured goods. These include motor vehicles, where some of the loss appears to be due to Brazilian sales gains; Chemicals – a loss to Argentina; cosmetics – also a loss to Argentina; pulp and papermaking machinery – losing to Brazil; toys and games – also to Brazil; photographic equipment – again, to Brazil; and many other categories. Petroleum products registered among the largest losses – over $100 million in exports were lost to Argentina.

Details on some specific industry sectors include:

Paper – U.S. exports of paper products suffered among the largest losses of any product category in Chile's import market. The U.S. share of Chilean paper imports was 30 percent in 1997, but fell by two-thirds to 11 percent in 2001. Had the share not fallen, U.S. exports of paper to Chile would be running at $104 million in 2001, instead they are actually at an annual rate of $39 million – a loss of $65 million of sales to America's hard-pressed paper mills. Canadian and Argentine mills were the big share gainers, and their increased sales accounted for almost all of the U.S. loss.

Plastics – American exports of plastics suffered a share loss that is costing these products $55 million in Chile this year. The U.S. market share fell from 29 percent in 1997 to 20 percent so far in 2001. Brazil was the big gainer, but Argentina also picked up market share in this area. Ethylene polymers were among the large losses suffered by U.S. exporters.

Paints and Dyes – A wide variety of U.S. - made paints, inks, and dyes were displaced in Chile's import market. The 9 percent loss in market share put U.S. exports of these products to Chile at an annual rate of $28 million instead of the $48 million they would have been had the share not been lost. Mexico was the big share gainer, but Brazil and Canada showed major gains as well.

Fertilizers – U.S.-made fertilizers lost more than half of their market share in Chile, a development that cut U.S. exports of these products to the Chilean market to $16 million – a loss of $19 million. The losses appeared to be due to diversion of Chilean purchases to Mexican producers, benefitting from their preferential market access.

Heating Equipment – A 26 percent drop in market share for such products as water heaters, drying equipment, and other machinery employing heat will cost U.S. exporters $21 million dollars this year. Most of the lost U.S. sales appear to represent a Brazilian gain.

Construction Equipment -- While U.S. construction equipment has seen only a 7 percent loss in market share, that is large enough to cause a $10 million export loss, an amount which was almost exactly offset by share gains and export increases on the part of producers in Brazil and Canada.

CONCLUSION

Analysis of recent trading patterns with Chile makes it evident that free trade agreements can alter the sourcing of imported products. In the case of Chile, its agreements with countries such as Argentina, Brazil, Canada, and Mexico have diverted major purchases away from U.S. producers. The over $800 million loss explained earlier in this analysis is no trivial matter to U.S. exporters, and represents the loss of about 10,000 job opportunities for U.S. workers.

Chile is America's 33rd largest export market, putting in perspective the fact that as larger trading partners form FTA's, an enormous diversion of U.S. exports – and hence U.S. production and employment, is quite possible. Over time the trade effects of free trade agreements can be staggering. The NAM has estimated, for example, that successful elimination of duties through the Free Trade Area of the Americas (FTAA) negotiations could easily result in a tripling of U.S. exports to South America within a decade – from today's $60 billion to $200 billion -- sales that would go to countries other than the United States if the FTAA were not concluded.

The message is clear: America needs to accelerate greatly its efforts to enter into and successfully conclude trade agreements that will reduce barriers to U.S. exports and level the playing field for American firms. The prospective gains in this win-win situation are huge all around.

National Association of Manufacturers
October 2001

The analysis for this report was substantially developed by Jennifer Wing, an NAM intern from the University of Iowa.

The NAM gratefully acknowledges the support for this analytic paper provided by Global Trade Information Systems, Inc.(GTIS), whose "Global Trade Atlas™ "(GTA) provides unprecedented access to the official merchandise trade data for more than thirty-five of the world's major economies. This tool allows viewing more than ninety percent of the world's trade in any commodity classified by the Harmonized System, and provides an entirely new way of examining trends in world markets.

PREPARED STATEMENT OF HON. ROBERT ZOELLICK

Mr. Chairman, Senator Grassley, and Members of the Committee:

I would like to open by thanking each of you for the time, attention, and support that you and your staffs have given to me and my colleagues.

Last year the Committee accomplished much in a number of areas, so we are most appreciative of the energy you have devoted and the efforts made to place trade policy on America's priority agenda. Together, we have made a good start.

At the start of last year, the global trading system was under stress. The nations of the world had failed to launch new global trade negotiations in Seattle in 1999, the effort to bring China and Taiwan into the World Trade Organization had stalled, and Congress had twice failed to grant the President the trade negotiating authority that had lapsed in 1994. Numerous contentious trade disputes were piling up and the benefits of trade had been lost in the public debate. The thrust for trade liberalization had lost energy.

Against this backdrop, and with your help, President Bush pressed an activist strategy to regain momentum on trade. As he explained: "Our goal is to ignite a new era of global economic growth through a world trading system that is dramatically more open and more free." By doing so, we can improve the job opportunities, incomes, productivity, purchasing choices, and family budgets of America's workers, farmers, ranchers, small business-persons, and entrepreneurs. The President has promoted the agenda for trade liberalization on multiple fronts: globally, regionally, and with individual nations. This strategy creates a competition in liberalization with the United States as the central driving force. It enhances America's leadership by strengthening our economic ties, leverage, promotion of fresh approaches, and influence around the world.

I am particularly pleased to see that we have accomplished the five goals Chairman Baucus set out at my confirmation hearing last year: (1) pass the U.S.-Jordan Free Trade Agreement; (2) enact the U.S.-Vietnam Bilateral Trade Agreement; (3) offer a bill for Trade Promotion Authority that could receive wide support, as the Chairman and Senator Grassley demonstrated by leading an 18 to 3 vote in the Committee; (4) address the challenges facing the U.S. steel industry, as we are doing through our initiation of a Section 201 safeguard action and a complementary international agenda; and (5) assess and monitor enforcement capabilities, especially with reference to China's accession to the WTO.

Seizing the Global Initiative

A. Launching New Global Trade Negotiations

In 2001, the United States played a leading role in the launch of new global trade negotiations at Doha in November, overcoming the obstacles that plagued the prior effort in Seattle. We benefited greatly from the consultations and guidance we received in advance of the Doha meeting. I also appreciated Chairman Baucus' and Senator Grassley's extra effort to arrange an opportunity for me to brief Senators and staff right after we returned.

The new WTO negotiating mandate lays the groundwork for an ambitious trade liberalization agenda in key sectors, especially agriculture, manufacturing, and services, targeted to be completed by 2005.

In agriculture, to achieve a program of fundamental reform, we committed to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.

In manufacturing, we secured a negotiating mandate to reduce or eliminate tariff and non-tariff barriers on industrial products, ensuring that the United States can pursue a variety of tariff liberalization initiatives, such as landmark agreements like the Information Technology Agreement (ITA). The mandate is comprehensive no sectors or products are excluded from the outset for any WTO Member.

And in services, the Doha Declaration sets a rigorous timetable for the pursuit of open markets in a number of key sectors for the United States, including telecommunications, financial services, audio-visual, express delivery, and other distribution services.

Many U.S. groups assisted us in the preparation of these negotiating mandates, and we are delighted by their strong statements of support after Doha. They have emphasized the interconnection of this work with economic recovery in America and around the globe.

At Doha, we also made significant progress in a number of other areas, some of which I will discuss later in this statement:

- WTO members adopted a political declaration that highlights provisions in the TRIPSagreement that provide Members with the flexibility to address public healthemergencies, such as epidemics of HIV/AIDS, tuberculosis and malaria.
- The Doha Declaration includes a mandate to launch negotiations aimed at eliminatingenvironmentally harmful fish subsidies and increasing market access for environmentalgoods and services. The agreement also includes an important new mandate to enhancethe mutual supportiveness of multilateral environmental agreements (MEAs) and the WTO rules by strengthening the relationship between the two, institutionally and substantively.
- In the area of e-commerce, the declaration ensures that the WTO will remain active inthis important and dynamic area through the continuation of its work program, whileextending the ongoing moratorium on imposing customs duties on electronictransmissions. This work program will provide an opportunity for the United States tocontinue its efforts to press other countries to avoid unnecessary measures that wouldimpede the growth of e-commerce.
- The review of WTO rules explicitly states that any negotiation of trade remedy laws willpreserve the basic concepts, principles, and effectiveness of existing

agreements, as wellas their instruments and objectives, enabling us to pursue an offensive agenda against theincreasing use of these laws against U.S. exporters while also addressing the underlyingtrade-distorting practices.

- The declaration includes an agreement providing for enhanced transparency in WTOMember government procurement procedures. This program should lead to improveddisciplines in government purchases, making an important contribution to combatingcorruption.
- The declaration states a commitment to enhance cooperation between the WTO and theInternational Labor Organization.

To help maintain the momentum after the Doha agreement, the WTO economies agreed that Mexico will chair the WTO ministerial in 2003. As the incoming chair, Mexico can assist in promoting the pace of the new negotiations.

One of the important WTO entities in the months ahead will be the Trade Negotiations Committee. That committee took a number of useful steps at its meeting on February 1. It appointed the WTO Director/General to chair the committee's work (in an ex-officio capacity) until the January 2005 deadline set for the completion of the negotiations. This guarantees the committee will receive the necessary attention at the WTO's highest level. And the TNC adopted a structure for the negotiations that will help the negotiating process move forward in an orderly fashion.

In 2002, we will press forward with these negotiations, advancing new and detailed proposals to open further the world's agriculture, services, and manufacturing markets. We will also be advancing our affirmative agenda for reforming WTO trade rules and the dispute settlement system, and building on the opportunities presented by the new environmental negotiating mandate.

The United States will place special emphasis on our continued effort to insure the involvement of least developed nations, in order to assist them secure the benefits of trade and to keep all WTO members invested in the process. We will work with the WTO and others to provide the tools and training needed to help these nations participate more actively in the global trading system. In particular, developed nations, multilateral development banks, and other international institutions—such as UNCTAD and the World Intellectual Property Organization—should supply technical assistance to build the capacity of poorer countries to engage effectively in negotiations and the subsequent implementation of trade agreements. By providing such support, we will be helping these nations to integrate with the global economy—a key part of the strategy for economic development—while also strengthening the rules-based trading system.

B. Completing the Accession of China and Taiwan to the WTO

Last year, the United States also 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, particularly that of Charlene Barshefsky, from whom I inherited an excellent bilateral agreement. Throughout 2001, we solved the multilateral dimension concerning agriculture, trading rights, distribution, and insurance, while navigating the extreme political sensitivities to enable China and Taiwan to join the WTO within 24 hours of one another.

These agreements integrate two of the world's largest economies into the rules of the WTO trading system and provide U.S. exporters with expanded access in growing markets ranging from automobiles and telecommunications to agriculture and chemicals. As a result, the President certified the requirements set by Congress through the leadership of Chairman Baucus and Senator Grassley and this Committee in the passage of the legislation extending Permanent Normal Trade Relations to China.

In 2002, the Bush Administration will work closely with other countries, as well as a private sector network we are interconnecting, to monitor China's and Taiwan's compliance. 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 with our businesses and with China and Taiwan to address problems and take action if necessary.

C. 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. As the President said in November during his meeting with President Putin, "we're working together to break the old ties, to establish a new spirit of cooperation and trust so that we can work together to make the world more peaceful."

To contribute to this vision for the 21st century, in 2002 we will continue our intensified effort to assist Russia's preparations to join the WTO. President Putin has made WTO membership and integration into the global trading system a top priority; we will support Russia as it promotes reforms, establishes the rule of law in the economy, and adheres to WTO commitments for a more open economy. This effort needs to include action by the Duma to establish an effective legal infrastructure for a market economy.

It is our expectation that the WTO will prepare a first draft Working Party report on Russia's accession in the first quarter of this year. We will work with Minister Gref—in cooperation with the EU and our other WTO counterparts—to address the gaps. Throughout this process, we look forward to consulting closely with the Congress and this Committee in particular.

To close out the history books of the Cold War, the President has urged the Congress to finally end the application of Jackson-Vanik to Russia. It has been over a decade since I worked on the unification of Germany with a fading Soviet Union that expired in 1991. Furthermore, Russia has been in full compliance with Jackson-Vanik's emigration provisions since 1994. My colleagues at the State Department and the NSC are, of course, consulting closely with various groups on the protection of freedom of religion and other human rights in conjunction with this action.

I understand that the first inclination of some might be to keep the Jackson-Vanik law in reserve as we negotiate Russia's accession to the WTO. I think this course would be a mistake, and would work against U.S. commercial and foreign policy interests. The Russians acknowledge they must abide by the WTO's rules, and we and 143 other economies will insist on that course as their WTO negotiations proceed. Yet the Russians are understandably sensitive about Jackson-Vanik, which places their trade relations with us in a different category. To use JacksonVanik in this way would signal that we still treat Russia as a former foe, not a possible friend. Working closely with the Congress, we will stress the need for Russia to offer fair market access—for example in agriculture—but we should do so according to the rules to which we maintain Russia should adhere. Congress exercises substantial oversight in these negotiations through existing consultation provisions.

Pressing the Regional Initiative: The Free Trade Area of the Americas

In April 2001, at the Quebec City Summit, the President inaugurated a reinvigorated push for free trade throughout the Americas. A number of Members of the Committee joined him to express their support and represent important perspectives.

At Quebec City, the leaders of 34 democracies of the Western Hemisphere agreed to proceed with detailed draft negotiating texts and to complete work no later than January 2005. Once implemented, the FTAA will be the largest free trade zone in the world.

The United States and its FTAA partners are working commitedly toward this goal. By mid-May 2002, we will launch market-access negotiations on agriculture, industrial goods, services, investment, and government procurement. In October, trade ministers will meet in Quito to review the revised negotiating texts and to determine how to move forward. Upon the close of the Quito meeting, the United States and Brazil will begin a co-chairmanship of the FTAA process, providing an opportunity for cooperation with a key partner and economic power as the pace of negotiations accelerates.

Throughout the year ahead, we will also persist in our efforts to make the public case for NAFTA's 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, by demonstrating how free trade between developed and developing countries can boost prosperity, economic stability, productive integration, the development of civil society, and even democracy.

Moving Forward: Bilateral Free Trade Agreements

In 2001, the Congress approved the U.S.-Jordan Free Trade Agreement with broad support, establishing America's third free trade zone, and our first with an Arab country. The Congress also passed the Bilateral Trade Agreement with Vietnam, achieving a principal goal of America's decade-long agenda to normalize relations with our former foe. Many of you played key roles in the development of these agreements and then shepherded the final packages successfully. I appreciate, in particular, Senator Kerry's support and encouragement of new trade ties with Vietnam.

In 2002, we intend to complete free trade agreements with Chile and Singapore. Each of these agreements offer new opportunities for U.S. businesses and workers and will send a message to the world that the United States will press ahead with those that are committed to open markets whether in the Western Hemisphere, across the Pacific, or beyond the Atlantic. As we move these FTA negotiations toward completion in the months ahead, we want to work closely with this Committee so we can try our best to address your concerns and interests.

In 2002, working with the Congress, we also hope to initiate talks on new bilateral free trade agreements. These agreements can open up a new front for free trade. They can create models of success that help reformers, break new ground for liberalization in changing or emerging sectors (e.g. biotech, high tech including IPR-related sectors—and services), build friendly coalitions to promote trade objectives in other contexts (e.g. biotech, SPS topics), add to America's trade leverage globally, underpin links with other nations, and energize and expand the support for trade. New trade agreements also present fresh opportunities to find common ground at home, and with our trading partners, on the nexus among trade, growth, and improved environmental and working conditions.

Our aim is to achieve free trade agreements with a mix of developed and developing nations in all regions of the world. As the President announced in January, and as Congress urged in the Caribbean Basin Trade Partnership Act, we want to explore a free trade agreement with the countries of Central America. Many Members of Congress have written me to express strong support for an FTA with Australia. I met with Australian Trade Minister Mark Vaile last week to discuss how best to move forward towards this goal, recognizing the need in particular to work on agricultural issues. The Africa Growth and Opportunity Act (AGOA) also urges us to advance the negotiations of FTAs with sub-Saharan Africa.

We are weighing these and other possibilities to extend free trade. We look forward to discussing these matters with the Committee and would benefit from your thoughts on these or other possible FTAs. It is our hope that we could use such an agenda to try to achieve the goals in the bills passed by the House and the Finance Committee.

The Executive-Congressional Partnership: Trade Promotion Authority, the Andean Trade Preference Act, and the Generalized System of Preferences

The Constitution vests the Congress with the authority "To regulate Commerce with foreign Nations." It also extends the powers to the President to conduct relations with other countries. These two grants need to be reconciled effectively.

After 150 years of contentious Congressional trade debates over tariffs, culminating in the disastrous experience of the Smoot-Hawley bill, the Congress tried a different approach in 1934: The Reciprocal Trade Agreements Act, which created a new partnership between the Congress and the Executive branch to lower barriers to trade.

This partnership has been the foundation of America's economic and trade leadership ever since. In 2001, the Bush Administration honored this rich tradition by working hand-in-hand with the Congress to open markets; we will build on this relationship in the year ahead. Frequent, substantive consultation is the hallmark of an effective trade policy. It helps to ensure that the Executive branch and the Congress work together to achieve America's trade objectives.

A Congressional grant of Trade Promotion Authority would strengthen and guide the ExecutiveCongressional partnership, as it creates and formalizes new consultative mechanisms throughout the trade negotiation process. In 2001, we are grateful that the House of Representatives passed Trade Promotion Authority legislation and that the Senate Finance Committee gave a strong bipartisan endorsement to a similar bill, 18–3. I would like to thank Chairman Baucus and Senator Grassley in particular for their leadership in promoting Committee action shortly after the successful House vote.

We are pressing to open 2002 with the prompt completion of Congressional action on TPA. We are pleased Majority Leader Daschle has pledged early action. By enacting TPA after a sevenyear lapse of authority, Congress can promote America's global leadership and give the President the tool he needs to strike the best trade agreements for America's farmers, workers, families, and consumers. The revival of this trade authority which prior Congresses granted to the previous five Presidents—will also contribute to our economic recovery by enhancing our ability to open the world's markets for U.S. exports and lowering the costs of supplies for American families and businesses.

For all the benefits of trade, I recognize that trade can also lead to adjustment challenges. For this reason, the Bush Administration strongly supports reauthorization of Trade Adjustment Assistance (TAA) programs, which provide assistance for

workers who lose their jobs because of trade. The Administration wants to work with Congress to improve the programs to make them more effective.

In particular, the Administration would like to consolidate TAA and NAFTA–TAA; ensure more rapid processing of petitions and delivery of services; and better coordinate federal agencies and local authorities to improve delivery of all federal assistance to communities and individuals affected by trade. Our primary objective is getting people back in jobs as quickly as possible, so we would like to work with Congress to create better incentives for reemployment. We also want to address concerns over limitations on the "shift-in-production" benefits provided by current programs. And we would like to work with Congress to address other areas that may not be adequately addressed at present.

We also urge the Congress to reauthorize and expand the Andean Trade Preference Act—a vital program for the four Andean developing country democracies on the front lines of the fight against narcotics production and trafficking. ATPA was enacted in 1991, and its expiration after ten years has caused real hardship for friendly countries with little margin to spare.

Finally, we respectfully hope to press the Congress to reauthorize the expired Generalized System of Preferences, a 26-year old U.S. program to promote economic growth in 123 developing nations and 19 territories by providing duty-free treatment for certain exports to the United States. The expiration of GSP access on September 30—shortly after September 11 raises anxieties around the developing world that the United States is ignoring the conditions that can become breeding grounds for those whose purpose is destruction, not construction and production.

Working with Developing Nations

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."

Last year, we began the important implementation of the far-sighted African Growth and Opportunity Act, which Congress enacted in May 2000. As you know, AGOA extends duty-free and quota-free access to the U.S. market for nearly all goods produced in the 35 eligible beneficiary nations of sub-Saharan Africa. In 2001, the United States lifted all duties on eligible apparel products exported from 12 AGOA nations to the United States. The Administration is fully committed to AGOA's use and expansion: It 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. Indeed, we support prompt Congressional action on legislation that will clarify and strengthen current provisions in the African Growth and Opportunity Act. Next week, I am traveling to Kenya, South Africa, and Botswana to listen and learn more about Africa's needs, while conveying America's support for Africa's economic and political reforms and our interest in greater trade.

Through AGOA and other preferential trading ties, such as the Caribbean Basin Trade Partnership Act, we will support efforts to build the capacity of developing countries to take part in trade negotiations, implement complex trade agreements, and use trade as an engine of economic growth. The United States devoted more than $555 million in trade-related capacity building assistance to developing countries during fiscal 2001—more than any other single country. We will continue to work with other agencies of the U.S. government, such as AID, and with multilateral and regional institutions, such as the World Bank, the Inter-American Development Bank, the African Development Bank, and the WTO to help developing nations to board the ship of trade so as to reach the shore of prosperity, opportunity, jobs, better health, the rule of law, and political reform. Congress' advice, encouragement, and support is 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 aggressively monitored and enforced our agreements, reaching settlements benefiting American producers, exporters, and consumers in sectors such as entertainment (motion picture and television programming), high-technology (software and telecommunications) and agriculture (bananas, soybeans, lamb, rice, livestock,

dried beans, stone fruit, fresh fruits and vegetables, processed foods, citrus, stuffed molasses, and wheat gluten).

In 2002, we will seek to resolve favorably other trade disputes in a way that best serves America's interests. Among the most prominent cases are: softwood lumber with Canada; beef with the European Union; the Foreign Sales Corporation WTO case brought by the EU; and sweeteners with Mexico. To avoid large trade retaliation against U.S. exporters and the risks of spiraling conflict, we and other departments will need in particular to consult and work with the Congress closely to determine an approach to the recent FSC decision.

We plan a special effort around the world to address technology regulations (e.g., biotech) and science and health measures that impede farm exports and the productive development of agriculture.

Trade Laws Against Unfair Practices

Given America's relative openness, we can only maintain domestic support for trade if we retain strong, effective laws against unfair practices. This Administration has used and backed the use of these laws.

In Doha, working closely with the Commerce Department, we stressed and pressed this point vigorously. We then advanced an offensive agenda in this area. We targeted the increasing misuse of these laws, particularly by developing countries, to block U.S. exports. During 19952000, there were 81 investigations by 17 countries of U.S. exporters. Chemical, steel, and other metal producers are the most frequently targeted U.S. industries, although U.S. farm products are increasingly the victims. At present, there are over 60 orders against American companies in effect. The new negotiations launched at Doha will help us address significant shortcomings in foreign anti-dumping and countervailing duty procedures by improving transparency and due process.

Finally, the Doha Declaration makes clear that trade remedy laws are essential tools and should not be undermined. We won agreement that the new negotiations will preserve the concepts, principles, andeffectiveness of the international provisions on which we rely, as well as the instruments we use. Moreover, the United States 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.

The Importance of Safeguards

Maintaining public support for open trade means providing 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 and creative use of statutory safeguards, consistent with WTO rules, to assist American producers. Used properly, these safeguards—for example, Section 201 of the Trade Act of 1974—can give producers a vital breathing space while they restructure and regain competitiveness.

The Bush Administration has pursued innovative approaches with safeguards. For example, while ending the safeguards for the U.S. wheat gluten and lamb industries last year, we also provided them with additional financial assistance over a period of 2–3 years. The effect has been to assist them in following through on their transitions to competitiveness, while also helping to insulate our exporters from trade retaliation. The European Union agreed to lift its duties on U.S. corn gluten imports as part of our action on wheat gluten.

In June, the Administration requested a safeguards investigation by the U.S. International Trade Commission into whether increased imports were causing serious injury to the U.S. steel industry. Many of you urged this and the prior Administration to take this step, and we were pleased to work with you to do so after your unsuccessful efforts in the 1990s. The President's request was one part of a larger U.S. global steel initiative that also included the launch of new negotiations with our trading partners to eliminate inefficient excess capacity in the world's steel industry and to enhance international discipline over subsidies and other measures that distort markets.

On December 19, the International Trade Commission issued a report containing its recommendations. A plurality of the commissioners recommended various remedies for many of the steel product categories. The Administration has been reviewing the ITC's recommendations, as well as the views of a diverse collection of steel companies, labor unions, steel consumers, port authorities, and exporters. We recently received supplementary information from the ITC pursuant to a request I made last month on behalf of the Administration. We of course welcome further input from this Committee and the Congress. Based on this information, I expect the President will decide on a course of action in coming weeks.

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.

The trade system also needs to be alert to other challenges. Poor countries cannot succeed with economic reform and growth if they are eviscerated by pandemics. From its first days, this Administration recognized this economic, health, and social reality. We stressed that the international WTO Agreement on intellectual property (the TRIPS accord) contains flexibilities for developing nations to obtain access to critical medicines to help address public health emergencies, such as HIV/AIDS, tuberculosis, and malaria. The Administration played a key coalition-building role-working closely with African nations and Brazil, as well as with the pharmaceutical companies—to develop a special political declaration at Doha that highlights these flexibilities.

Flexibility on intellectual property, 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 the largest bilateral donor of funds for HIV/AIDS, tuberculosis, and malaria assistance, providing over $1 billion per year on related research, much of which helps to address developing country problems. (This represents nearly 50 percent of all international HIV/AIDS funding.) The United States was the first contributor, and remains the largest, at $500 million, toward the international "Global Fund to Fight AIDS, TB and Malaria," which will allocate its first grants in April.

We are also stressing that it would be a tragedy and health setback if the promotion of the flexibilities within the TRIPs accord degraded into an assault on intellectual property. Effective protection of intellectual property is critical for developing nations, because we need to find and develop cures for diseases that ravage their societies. Similarly, biotechnology holds out tremendous potential for the developing world: It can increase food security and food production through higher yields and the reduction of fertilizer and insecticide inputs. New discoveries will add vitamins to foods, and counter malnutrition and disease. Furthermore, the local protection of intellectual property rights establishes the foundation for an attractive investment climate for industries of the future. Indeed, as developing countries have implemented the intellectual property protections in TRIPs, they have begun to benefit from increased technology transfer and investment—two key factors in long-term economic growth.

There are other areas where we are working to ensure our trade policies are supportive of related meritorious purposes. USTR has worked closely with Members of Congress on legislation that would support international efforts to stop trade in "conflict diamonds" (diamonds traded by rebel movements to finance conflict aimed at undermining elected governments). The bill approved by the U.S. House of Representatives in late November achieves this objective consistent with our international obligations. We will continue to work with other agencies and the Senate sponsors of the legislation to resolve any remaining issues and to help bring the Kimberley Process (the international negotiations aimed at preventing trade in conflict diamonds) to a successful conclusion.

A Cleaner Environment and Better Working Conditions

Free trade promotes free markets, economic growth, and higher incomes. And as countries grow wealthier their citizens demand higher labor and environmental standards. Furthermore, governments have more resources and incentives to promote and enforce such standards.

In 2001, we charted progress on incorporating labor and environmental concerns into U.S. trade policy. The U.S.-Jordan Free Trade Agreement is the first U.S. free trade accord to include enforceable environmental and labor obligations in the body of the agreement. The Administration also affirmed an executive order, and its implementing guidelines, for conducting environmental reviews of trade agreements. As part of this policy, USTR is conducting environmental reviews of the U.S.-Chile and U.S.-Singapore free trade agreements, the Free Trade Area of the Americas, and the WTO's new negotiating agenda.

The House and Senate Trade Promotion Authority bills contain provisions that will incorporate labor and environmental concerns into U.S. trade negotiations. We are drawing on this guidance—and would welcome additional insights—as we are pursuing these topics in our current FTA negotiations. Similarly, I am conducting discussions with NGOs and the business community to ascertain how we can address concerns posed about investment provisions involving private action. Working

with our NAFTA partners last July, we issued additional binding interpretations for NAFTA panels that define more precisely the bases for their reviews.

As I noted earlier, the United States played a leading role in forging the compromise to incorporate environmental concerns into the new global trade negotiations. I have already discussed with numerous countries the critical importance of proceeding creatively and positively on this Doha agenda, because I believe it offers significant opportunities. We can take practical steps that show that good environmental policies and sound economics can be mutually supportive. In addition, we should create a healthy "network" between multilateral environmental agreements (MEAs) and the WTO, enhancing institutional cooperation and fostering compatible, supportive regimes. If we succeed, this precedent may be helpful in interconnecting the WTO with other specialized organizations, such as the ILO on labor policies and the WHO on health issues.

The Bush Administration has a sound track record of using our trade preference programs, and our trade negotiations, to improve working conditions in the context of trade liberalization. In May, the Guatemalan Congress enacted a significant package of reforms to the country's labor law following a U.S. review of the country's labor practices conducted under the Generalized System of Preferences program. In December, the United States and Cambodia extended our Bilateral Textile Agreement, including an increase in the quota for textile exports from Cambodia in recognition of Cambodia's progress in reforming labor conditions in factories over the past three years. And in our negotiations for free trade agreements with Chile and Singapore, in accordance with the objectives in the TPA legislation, we will seek a meaningful set of cooperative provisions that will advance labor and environmental protection and projects, while promoting open markets.

We know the importance of these topics for many members of the Committee, and we want to work with you to explore new approaches that break through old stereotypes. Some are concerned about a "race to the bottom," although others point to the benefits of trade and openness in spurring growth, productivity, higher incomes, and enhanced scrutiny of working and environmental conditions. Some stress the need to safeguard America's sovereign rights to select our own standards, while others want to deploy trade agreements to compel others to negotiate 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 TPA bills Congress has forged to bridge the differences, build a stronger consensus, and make a real, positive difference around the world.

Conclusion: Challenges on the Trade Horizon

The United States has made considerable progress on the trade agenda in the past year, but still must do more to catch up with our trading partners. The European Union now has 29 regional and bilateral free trade or special customs agreements, 22 of which it negotiated in the past decade, and is in the process of negotiating with 12 more countries. Mexico sped past the United States after NAFTA to complete eight free trade agreements with 28 countries. Japan has completed a free trade agreement with Singapore and is exploring options with the ASEAN nations, Canada, Mexico, Korea, and Chile. Even China, just into the WTO, is pursuing an FTA with the ASEAN countries.

Altogether, there are 130 regional free trade and customs agreements in the world; the United States is a party to only three. There are 30 free trade agreements in the Western Hemisphere; the United States is a party to only one. In recent years, when the rules of trade have been set, the United States has frequently not been at the negotiating table.

In addition, there is a constant threat of markets closing and barriers rising. During periods of economic downturn and uncertainty, it is most important to affirm the drive toward free trade. In the past, governments have often resorted to protectionism in short-sighted attempts to shield their local industries from competition. In the face of these challenges, we must be even more vigilant in order to move ahead.

Opening markets, and liberalizing commerce, injects fresh dynamism and energy into the U.S. economy. Open trade cuts taxes on businesses and consumers. For example, NAFTA and the Uruguay Round agreements have resulted in higher incomes and lower prices for goods, with benefits amounting to $1,300 to $2,000 a year for the average American family of four.

There is even more to be gained. A University of Michigan study has reported that new global trade negotiations focused on tariff reductions on industrial and agricultural products could deliver an annual benefit of nearly $2,500 for American families.

We will continue to make this case for the benefits of trade. Expanded trade—imports as well as exports—improves our well being: Exports accounted for 25 percent of U.S. economic growth from 1990–2000 and support an estimated 12 million jobs; these jobs are estimated to pay 13 to 18 percent more than other jobs. Trade also promotes more competitive businesses—as well as more choices of goods and inputs, with lower prices.

A free and open trading system is critical to a number of sectors of the U.S. economy. In U.S. agriculture, for example, one in three acres are planted for export and nearly 25 percent of gross cash sales are generated by exports. The value of U.S. exports of agricultural products is expected to be $54.5 billion this year. U.S. farmers and ranchers are 2 1/2 times more reliant on trade than the rest of the economy.

Last year, the Administration and the Congress together restored America's trade policy leadership all around the globe. There is no doubt the United States is back at the free trade table. In the year ahead, the Bush Administration will work in close consultation with the Congress to build on this leadership through the ongoing implementation of an activist agenda that seeks to vanquish the barriers to free trade and magnify the opportunities for growth and prosperity. By opening new markets, together we will be contributing to the enhancement of democracy, liberty, security, innovation, political coalitions, economic growth, and openness in the United States and throughout the world.

COMMUNICATIONS

STATEMENT OF THE ADVANCED MEDICAL TECHNOLOGY ASSOCIATION (ADVAMED)

AdvaMed represents over 1100 of the world's leading medical technology innovators and manufacturers of medical devices, diagnostic products and medical information systems. Our members are devoted to the development of new technologies that allow patients to lead longer, healthier, and more productive lives. Together, our members manufacture nearly 90 percent of the $71 billion in life-enhancing health care technology products purchased annually in the United States, as well as 50 percent of the $165 billion in medical technology products purchased globally. Our industry enjoys a trade surplus of $7.1 billion vis-a-vis our trading partners.

Global Challenges

Innovative medical technologies offer an important solution for industrialized nations, including Japan and European Union members that face serious health care budget constraints and the demands of aging populations. Advanced medical technology can not only save and improve patients' lives, but also lower health care costs, improve the efficiency of the health care delivery system, and improve productivity by allowing people to return to work sooner.

However, when regulatory policies and payment systems for medical technology are complex, non-transparent, or overly burdensome, they can significantly delay or deny patient access to the latest, state-of-the-art innovations. They can also serve as non-tariff barriers, preventing U.S. products from reaching patients in need of innovative health care treatments.

AdvaMed applauds President Bush's support of international trade initiatives. We strongly support passage of legislation to renew presidential trade promotion authority (TPA) to empower the President to reduce tariffs and non-tariff barriers throughout the globe. It should be extended to ensure further work on regional and global trade negotiations, including the Free Trade Area of the Americas (FTAA), the Asia-Pacific Economic Cooperation (APEC) forum, and the World Trade Organization (WTO). In addition, the President and U.S. Trade Representative (USTR) should use this authority to continue to pursue bilateral trade agreements in the medical technology sector with our major trading partners.

AdvaMed believes the USTR, Department of Commerce (DOC) and Congress should monitor regulatory, technology assessment and reimbursement policies in foreign health care systems and push for the creation or maintenance of transparent assessment processes and the opportunity for industry participation in decision making. *We look to the Administration and Congress to actively oppose excessive regulation, government price controls and arbitrary, across-the-board reimbursement cuts imposed on foreign medical devices and diagnostics*.

Continued U.S. Leadership Urgently Needed to Fight Trade Barriers in Japan

For the medical technology industry, the Bush Administration's efforts with Japan under the U.S.-Japan Partnership for Economic Growth are critical for maintaining access to the Japanese health care market.

After the U.S., Japan is the largest global market for medical technologies at $24 billion. US manufacturers annually export over $2 billion to Japan and manufacture another $6.5 billion in the region for the Japanese market. These statistics are good indicators of our industry's global competitiveness in the field of medical technology and it strongly underscores the importance of critical ongoing efforts with the U.S. government to open the Japanese market further to cost-saving and life-enhancing medical technologies.

In 1986, U.S. Government leadership began to help pry open Japan's protective and costly marketplace for medical devices under the MOSS trade agreements.

Since then, with the help of the Administration and Congress, we have turned a $100 million medical device trade deficit in 1997 into a $1.3 billion trade surplus today.

In November 2001, however, Japan took steps that constitute a significant setback in the progress that has been made over the last 15 years in the medical device sector. On December 12, 2001, the Japanese Ministry of Health and Welfare (MHLW) adopted a new pricing policy that includes 'foreign reference pricing' (FRP). Effective April 1, 2002, the new policy allows MHLW to cut reimbursements for medical devices based on the overseas price of the same or a similar medical technology.

The U.S. Government and Congress has long opposed FRP schemes, which discriminate against the U.S. medical device industry and fail to recognize the high costs of doing business in Japan. Twice the number of sales representatives as in the U.S. are required to generate the same sales revenue in Japan. The cost of doing business is substantially high; Japan has a multi-layered distribution system between the manufacturer and the hospital; and unique to Japan, the price of technology in Japan includes after-sales service components.

The process by which the FRP proposal was adopted by MHLW on December 12th runs contrary to U.S.-Japan trade agreements, which call for consultation with industry when Japan seeks regulatory/reimbursement policy changes that could have a substantial impact on U.S. industry. Industry was given only *5 days notice* before the policy was adopted in December.

Temporary cuts to reimbursements for medical devices in Japan will do little to address the impending financial situation facing Japan's health care system. Medical devices represent only 7.5% of overall healthcare costs in Japan. Foreign reference pricing will discourage the use of advanced medical technologies—which can actually improve the efficiency and quality of the health care system.

The U.S. medical device industry is looking to the highest levels of the Bush Administration to exert leadership in getting MHLW to modify its December 12th policy and remove FRP.

In addition, negotiations under the U.S.-Japan Partnership for Economic Growth are critical for achieving further market-opening measures in Japan's healthcare market, including:

- Reimbursement policies that are more responsive to the innovation process, such as:
- Measures to expedite the coverage, payment and access to brand-new-to-Japan medical technologies (category C2), as per earlier trade agreement commitments;
- Avoidance of excessive price control measures as a policy means to control overall healthcare spending, focusing instead on the creation of payment categories that are more reflective of the differences in technologies; and
- Japan should encourage more reimbursement decisions based on foreign clinical data, as well as create a cost-sharing system for any clinical trials required in Japan.
- Streamlined and transparent safety approval procedures, including (but not limited to):
- Better definitions and criteria within the product classification system;

Improved "pre-consultations" process and use of a standardized "checklist" of submission contents to clearly identify requirements prior to application submission; Also, better documentation practices within MHLW on discussions with industry (to avoid misunderstandings and to create binding decisions);

- Resolution over the longstanding issue over materials characterization and acceptance of biocompatibility tests of materials conducted according to international standards.
- Better harmonization with Global Harmonization Task Force recommendations in areas such as "adverse event reporting" where Japan is implementing unique and burdensome requirements on manufacturers.

Europe: Seek Appropriate Policies That Improve Patient Access to Innovative Medical Technologies

Efforts to oversee foreign policies impacting the export and sale of US medical devices abroad should also focus on the European Union (EU). U.S. manufacturers export nearly $8 billion annually to the EU and maintain a $3.6 billion trade surplus with the EU. Within the EU, Germany ($16 billion) and France ($7 billion) are the largest markets for medical devices

In the EU, enforcement of current trade agreements is key. The US-EU Mutual Recognition Agreement (MRA) must be fully implemented. Bringing healthcare products to the market faster is an important priority consistent with the protection

of public health and the reduction of regulatory costs and redundancy. The medical device industry was disappointed that the MRA transition was not completed by December 2001 and was extended for two years, until December 2003. The European Commission (CEC) should be encouraged to take all proper measures to ensure that the MRA is operational as soon as transition activities are completed.

In addition, European Member States should be encouraged to adopt policies for their health technology assessment (HTA) decisions affecting medical technologies that are transparent and timely, and industry participation should be allowed. US firms, as the leaders in innovative medical technologies, stand to suffer disproportionately from unnecessarily long delays in HTA decisions in Europe.

AdvaMed supports the Safe Harbor agreement struck between the EU and US—an agreement that promises the uninterrupted data flow from the EU to the US. The agreement, reached in response to the 1995 EU Data Privacy Directive, provides additional flexibility (along with specific data privacy contracts or compliance with the actual directive itself) for US firms to continue to receive data from their subsidiaries in Europe and/or EU-based companies. AdvaMed and its member companies look forward to working with both sides on implementing the agreement in such a way that supports transatlantic business and economic activities and, in particular, supports industry's efforts to research, develop, and bring to market medical technologies that offer great promise for patients on both sides of the Atlantic.

Utilize Multilateral Opportunities to Establish Basic Principles to Expand Global Trade and Patient Access to New Technologies

A primary goal of all economies is to provide high quality, cost effective healthcare products and services to all citizens. The mission and sovereign right of a government's regulatory agency is to oversee the efforts of medical technology manufacturers to ensure that their products are safe and effective. Another mission is to ensure their citizens have timely access to state-of-the-art, life-saving equipment and that compliance procedures are efficient and effective. To further expand patient access to safe and effective medical devices and ensure cost effective regulatory compliance, USTR should seek to ensure that regulatory agencies around the world make their policies and practices conform to the relevant and appropriate international trading rules established by the World Trade Organization (WTO).

Toward that end, member economies should agree to make their medical device regulatory regimes conform to these guiding principles:

- Acceptance of International Standards;
- Conformity/Provision of Transparency and National Treatment;
- Use of Harmonized Quality or Good Manufacturing Practice Inspections;
- Recognition of Others Product Approvals (or the Data Used for Those Approvals;)
- Development of Harmonized Auditing and Vigilance Reporting Rules;
- Use of Non-Governmental Accredited Expert Third Parties Bodies for Inspections and Approvals, where possible.

Similarly, many economies require purchases of medical technologies to take place through centralized and/or government-administered insurance reimbursement systems. To ensure timely patient access to advanced medical technologies supplied by foreign as well as domestic sources, member economies should agree to adopt these guiding principles regarding the reimbursement of medical technologies:

- Establish clear and transparent rules for decision-making;
- Develop reasonable time frames for decision-making;
- Data requirements should be sensitive to the medical innovation process;
- Ensure balanced opportunity for the primary suppliers and developers of technology to participate in decision-making, e.g., national treatment.
- Establish meaningful appeals processes.

Utilize Multilateral and Regional Forums to Eliminate Tariff and NonTariff Barriers to Trade that Unnecessarily Increase the Cost of Health Care

Many countries maintain significant tariff and nontariff barriers to trade for medical technology. Such barriers represent a self-imposed and unnecessary tax that substantially increases the cost of health care to their own citizens and delays the introduction of new, cost-effective, medically beneficial treatments. For example, the medical technology sector continues to face tariffs of 15–20% in Mercosur countries (Argentina, Brazil, Paraguay, Uruguay), 9–12% in Chile, Peru, and Colombia, and 6–15% in China.

The new WTO round launched in November is an important opportunity for the United States to secure global commitments on lowering tariff and nontariff barriers for the medical technology sector. We encourage the U.S. government to build upon

the zero-for-zero tariff agreements achieved in the Uruguay round by securing zero tariff agreements with Latin America and Asia as well.

Conclusion

AdvaMed appreciates the shared commitment of the President and the Congress to expand international trade opportunities. We look to the President and his Administration to aggressively combat barriers to trade throughout the globe, especially in Japan. AdvaMed is fully prepared to work with the President, USTR Ambassador Zoellick, the Department of Commerce and the Congress to monitor, enforce and advance multilateral, regional and bilateral trade agreements particularly with our key trading partners.

STATEMENT OF THE AMERICAN IRON AND STEEL INSTITUTE (AISI)

The American Iron and Steel Institute (AISI), on behalf of its U.S. member companies who together account for more than two-thirds of the raw steel produced annually in the United States, is pleased to provide comments to the Senate Finance Committee on trade negotiations.

Trade Liberalization: Need to Rebuild Public Consensus on Trade

There is a vital need for the Bush Administration to rebuild a new public consensus in support of free and fair rules-based trade. In this regard, to avoid a further undermining of public support for new free trade initiatives, it is essential that the Administration:

- enforce strictly U.S. trade laws and counter serious import injury where it is clearly determined (as in the steel Section 201 "safeguards" case); and
- resist firmly the growing pressures from foreign governments to weaken further international disciplines—and U.S. laws—against injurious, unfairly traded (dumped and subsidized) imports.

A national consensus on expanded international trade can only be achieved (and sustained) when trading rules are *fair, clear and consistently enforced*.

Strong trade laws, strict trade law enforcement, the countering of import injury and the preservation of fair trade rules all serve the free trade agenda. Unless the public believes that what is being expanded is fair trade, efforts to achieve further trade liberalization cannot succeed. The best way to reverse the erosion of public support for further trade liberalization and to restore a national consensus in support of freer trade is through strong trade laws, strictly enforced.

Rules-based trade and effective U.S. trade laws, properly enforced, prevent the exporting of unemployment to this country. A strong bipartisan majority of the Congress understands this, and AISI's U.S. member companies greatly appreciate the continuing strong support of the Congress, including many Senate Finance Committee Members. We thank you for your support of an effective steel Section 201 remedy, and also for your very clear message of no *further trade law weakening*—whether through:

- a new World Trade Organization (WTO) round of global trade negotiations;
- the WTO dispute settlement process, which is sorely in need of reform;
- regional negotiations such as the Free Trade Area of the Americas (FTAA); or
- bilateral free trade agreement (FTA) negotiations such as those with Chile and Singapore.

Steel Crisis: Need for Strong 201 Remedy

As the President and the Senate Finance Committee both recognized when they initiated the steel Section 201 investigation in June 2001, the 201 was a last resort for an American steel industry that had been engulfed by an unprecedented crisis largely not of its own making. This ongoing crisis, as the President correctly recognized when he announced his Steel Action Plan on June 5, 2001, is the direct result of:

- a 50-year legacy of foreign government intervention in the steel sector;
- pervasive steel market-distorting practices worldwide;
- un-addressed foreign economic and steel industry structural problems;
- massive global excess steelmaking capacity—roughly 250 million metric tons, or more than twice the size of the total U.S. steel market.

This has all led to the U.S. steel industry's current catastrophic condition. Over the past 4 years of crisis, we have witnessed:

- the three highest steel import years in U.S. history in 1998, 1999 and 2000;
- the largest surge of unfairly traded steel imports in history;

- the worst steel price depression in history, with import values and U.S. prices sinking to unsustainable lows;
- 27 steel U.S. company bankruptcies or shutdowns since December 1997;
- over 50 U.S. steel plants and related facilities closed in the past 24 months alone;
- the loss of nearly 44,000 U.S. steel worker jobs since January 1998, with almost 10,000 of these coming in January 2002, which saw the largest monthly rise in lost jobs in more than a decade.

America's steel companies, steel communities and related industries have lost tens of thousands of *real* jobs over the past 4 years due to unfair and disruptive steel imports sold in violation of international rules and U.S. laws. This is in stark contrast to the *theoretical* loss of jobs in U.S. steel using industries predicted by 201 opponents—losses that will never actually occur, since they are based on a flawed economic model using extreme and unrealistic assumptions.

This is not the way market-based trade is supposed to work. Between 1980 and the onset of the current steel crisis, the U.S. steel industry literally reinvented itself. By 1998, we had become a new industry producing new steels, using new equipment and employing new processes. Thanks to over $60 billion in modernization investments since 1980 and a costly and painful restructuring of all aspects of steel operations, a new U.S. steel industry had by 1998 emerged as a highly competitive, technologically advanced, low cost, environmentally responsible and customer-focused industry.

The past 4 years should have been the best of times for an American steel industry restored to world class status, which in recent years has added over 20 million tons of new, state-of-the-art steel capacity. Instead, we have a national steel emergency caused by a tidal wave of injurious, unfairly traded and disruptive steel imports.

In response to our imports-driven crisis, the U.S. International Trade Commission (ITC) has now ruled unanimously in the Section 201 steel investigation that increased imports have been a "substantial cause of serious injury" to the U.S. steel industry. The ITC has also recommended that steel trade remedies be applied. It is now up to the President to decide on or before March 6 what to do in the national interest.

AISI is convinced that President Bush and his Administration have a unique, historic opportunity, not just to counter import injury in the U.S. steel market, but also to create a lasting solution to the root causes of the U.S. and world steel crisis.

We urge the Senate Finance Committee and all Members of Congress to send a strong, clear message to the President and his Administration. The message is that:

- The United States can no longer be the WORLD'S STEEL DUMPING GROUND.
- The U.S. steel industry has suffered unprecedented import injury, and should be granted, under our WTO-consistent Section 201 safeguards law, a much-needed time-out from the current crisis environment.
- There should be a 4-year tariff of at least 40 percent on the full range of carbon and alloy steel products where the ITC has found injury.
- A strong and uniform steel tariff remedy is needed to stop effectively, and to reverse, the serious injury that has occurred.
- It is essential to restore the U.S. steel industry to health, to enable it to consolidate and continue to restructure and to allow it to do what is needed to invest in new technologies, products and markets.
- It will serve the long-term interests of U.S. steel using industries.
- It will benefit the overall U.S. economy and U.S. national security.
- It is necessary to the success of the President's multilateral steel initiatives, because only a strong 201 tariff remedy will encourage foreign governments and producers to deal seriously with their un-addressed steel sector structural problems and imbalances.
- There should also be industry efforts to work together and with the Congress and the Administration to help develop and enact legislation that removes barriers to steel industry consolidation and rationalization in the United States.
- The long term goal should be a lasting solution to the international steel trade problem: the Administration's multilateral steel initiative at the OECD to reduce inefficient and excess global steelmaking capacity and to remove steel trade-distorting practices worldwide deserves everyone's continued support.

The Administration is right that it is time to get governments out of steelmaking. It is time to end foreign government "targeting" and subsidization of steel, foreign government market barriers to imports of steel and steel-containing products and foreign government toleration of private cartels, as well as other anticompetitive behavior and corruption in the steel sector.

These trade-distorting practices were examined in great detail in the groundbreaking July 2000 Commerce Department study, "Global Steel Trade: Structural Problems and Future Solutions." The bottom line is that unfair trade practices enabled less efficient foreign steel companies to produce at levels not supported by market forces, to maintain artificially high steel prices in their home markets and to dump unprecedented quantities of steel in the United States and in North America as a whole. Then, after more than 200 antidumping (AD) and countervailing duty (CVD) orders, the Section 201 case became a last resort.

The steel crisis, therefore, holds important lessons for our nation's post-Doha trade agenda. The case of steel shows why it is critical to enhance, not weaken, U.S. trade laws. The lessons learned by U.S. steel producers are that, now, more than ever, we must support:

- prompt and strict enforcement of U.S. trade laws;
- modernization and enhancement of these laws in a WTO-consistent manner; and
- preservation of effective international disciplines against unfair trade.

New Global Trade Negotiations

For many years, the bipartisan position of the U.S. government has been to support continued multilateral trade liberalization, based on no further weakening of the WTO's AD/CVD rules. AISI and many other U.S. industries continue to support this position. Our consistent message can be summed up in three words: *RULES-BASED TRADE*.

No Trade Law Weakening Through New Doha Round of WTO Negotiations

Prior to the WTO Doha Ministerial Conference, the final proposals submitted by other governments made it clear that the ultimate goal of Japan and many other countries is the gutting of U.S. laws against unfair trade. Foreign unfair traders view the AD/CVD laws as the one remaining major obstacle to their unfettered abuse of the open U.S. market. They do not want to see usable U.S. laws against unfair trade.

The WTO's Antidumping Agreement and its Subsidies and Countervailing Measures (SCM) Agreement were extensively rewritten only 7 years ago and, in the period leading up to Doha, AISI and other industries urged the Administration to resist firmly foreign government pressures to put revisions to these Agreements on the agenda of new WTO negotiations. Notwithstanding our concerns that it would be a serious policy mistake to allow any opening up of AD/CVD rules in new WTO negotiations, the decision at Doha was to include AD/CVD rules in the new round negotiating agenda.

The Administration, to its credit, has continued to stress that it has no intention of allowing U.S. AD/CVD laws to be weakened through new WTO negotiations. The Administration points out that it has an "affirmative" agenda on WTO rules, which includes talking about (1) the unfair foreign trade practices that give rise to the use of AD/CVD laws in the first place and (2) the ways in the which other countries' AD/CVD laws fall short (lack of transparency, due process, etc.).

AISI and its U.S. member companies will continue to support trade liberalization, if—and only if—there is no further weakening of fair trade rules. Thankfully, in recent years there has been overwhelming bipartisan support in the Congress for preserving effective international disciplines and U.S. laws against unfair trade. In particular, we appreciate:

- the bipartisan letter to President Bush last year signed by nearly two-thirds of the Senate, expressing "strong opposition to any international trade agreement that would weaken U.S. trade laws."
- the House-passed resolution last year endorsed by over 400 Members, urging U.S. negotiators to preserve the effectiveness of U.S. trade laws and avoid trade law weakening agreements.
- the post-Doha letter to the President last year signed by 9 Senators, reiterating that "we should not be discussing U.S. trade laws at the WTO . . . [and] looking for reassurance that this Administration will not agree to any changes in U.S. laws that regulate unfair foreign trade practices."

The task now, however, is to *help the Administration make the most of its affirmative agenda on rules*. We agree with Chairman Baucus and others in the Congress that trade adjustment assistance (TAA) should be extended and strengthened to deal with workers who are laid off as a result of expanded trade. At the same time, we need to redouble our efforts to avoid trade-related unemployment before it occurs. We can best do that by maintaining and enhancing our trade laws. In light of the decision on rules taken at Doha:

- The Congress must send a strong and unmistakable message to U.S. negotiators, in new Trade Promotion Authority (TPA) legislation, that it will not approve agreements or adopt legislative provisions that weaken in any way America's vital laws against unfair trade.
- The Congress should clarify that, in this "Doha Development Round," it does not support the view that developing countries should be granted "special and differential treatment" with regard to AD/CVD rules, because the WTO should not be promoting development through the use of unfair trade practices—and because the claim that developing countries' legitimate export trade is being shut off by AD/CVD measures has no basis whatsoever in fact.
- The Congress must ensure that the WTO fully adheres to the words in the Doha Ministerial Declaration which say that, in a new trade round, negotiators will "preserve the effectiveness of the instruments and objectives of the WTO's Antidumping and Subsidies/Countervailing Measures Agreements."
- The relevant Congressional Committees of jurisdiction must engage in a direct and thorough review of any negotiations related to AD/CVD laws; U.S. negotiators should be required to discuss with the Committees all proposals to change these laws before any actual negotiation of such proposals takes place; and unless the Committees give specific approval, the United States should not engage in negotiations regarding such proposals.
- The President should commit not to submit for Congressional approval any agreement that requires weakening changes to U.S. AD/CVD laws and enforcement policies—"fast track" or Trade Promotion Authority must not be taken advantage of to speed passage of trade law weakening amendments.
- The Congress should also enact immediately new AD/CVD provisions, which strengthen these laws in a manner consistent with the existing WTO Agreements. Rather than allow trade law weakening, Congress should ensure that U.S. trade laws are as strong as what the WTO allows.

The Doha Round's discussion on rules will occur in two phases. During phase one, countries will identify the key issues that they would like to see discussed. For our part, we pledge to work closely with other industries to provide to the Administration an affirmative priority listing of ways in which the WTO AD/CVD Agreements should be *strengthened* and international disciplines against injurious dumping and trade-distorting subsidies *made more effective*. We also plan to highlight how unfair foreign trade practices in steel and other sectors—not AD/CVD laws—are *the real problem* in international trade.

- We will urge the Administration to work together with other NAFTA governments to encourage countries in Asia and other regions with serious market access problems to eliminate all barriers and anticompetitive practices and to open their markets fully to imports of steel and steel-containing products. Achieving open markets in all major steel producing and trading nations serves the interest of both steel producers and consumers globally.
- We will work with other "zero tariff" U.S. industries to ensure that Brazil and all other major steel producing and trading nations eliminate their steel tariffs immediately. Since the U.S. is among those countries that are already committed to going to zero on steel tariffs by January 1, 2004, this is needed to level the playing field in international steel trade.
- We will work with Members of Congress to develop an effective WTO-consistent remedy against country and product switching by irresponsible steel traders.
- We will work with other U.S. industries and with the Congress, both to identify the implications of the negotiating proposals tabled by other countries and to enact WTO-consistent amendments that make U.S. trade laws more effective.

Whether the Administration addresses steel trade-distorting practices through the Doha Round discussion on rules or through a separate effort to achieve a sector-specific agreement (an international steel agreement to ensure that steel trade in the future is free and fair in all markets), *the same principle must apply*: existing trade laws must not be weakened in any way. The goal is not to discipline the remedies we need to defend against unfair trade. The goal must be to *strengthen those remedies* and to *achieve the highest possible level of discipline* against unfair trade.

No Trade Law Weakening Through WTO Dispute Settlement

It is not just the negotiating proposals of other governments that are putting the WTO—and continued U.S. support of the WTO—at risk. Public support for the WTO is also fast eroding because the current WTO dispute settlement system threatens U.S. trade laws and U.S. sovereignty.

A thorough overhaul of the WTO dispute settlement system is urgently needed. Part of the problem is that, in recent WTO panel decisions on trade law issues,

agreed WTO standards and limits on panelists' authority have been abused or exceeded. U.S. steel producers support WTO dispute settlement reform, including:

- greater transparency in the WTO dispute settlement process;
- private party participation at WTO panel hearings;
- reform of the WTO panel selection process.

As it stands, WTO panels are creating new international rules—which is beyond their authority—and ignoring agreed standards. Under the existing dispute settlement system, foreign panelists who are often hostile to U.S. trade laws have routinely rejected U.S. trade remedies and have imposed new and, in some cases, very severe limits on the use of trade laws. *No challenged safeguards measure has ever been upheld by the WTO*. Similarly, countries have mounted repeated successful challenges to U.S. AD/CVD measures, obtaining through dispute settlement what the U.S. refused to accept in negotiations. Even when a country fails to achieve all it seeks in its appeal of U.S. trade law relief, there is often a net weakening of U.S. law. This is what occurred in Japan's appeal of U.S. AD duties on hot rolled steel—in spite of this being arguably the worst case of injurious dumping ever.

This attack by unfair traders and the WTO dispute settlement system on U.S. laws and rules to address unfair and disruptive trade must stop. The time has come for Congress to *re-examine the fundamental issue* of U.S. commitment to binding dispute settlement. So far, the experiment has proved a disaster for U.S. trade laws. The recent U.S.-Jordan free trade agreement includes non-binding dispute settlement. We think Congress should give serious consideration to expanding this approach.

We believe it is now essential that Congress insert itself into the WTO dispute settlement process to protect the sovereignty of the United States and to ensure that the positions the U.S. negotiated—and that Congress subsequently enacted into law—are not eroded by WTO dispute settlement bodies. In this regard, AISI wishes to thank those Members of the Senate, including Chairman Baucus, who have placed a premium on urging the Administration to develop an early strategy to fix this serious problem before it is too late. The Congress can help in three ways to address the problem of a WTO dispute settlement system that is undermining U.S. trade laws.

- First, it can join the Administration in support of WTO dispute settlement reform, including reform of the panel selection process, greater transparency and allowing concerned private parties to participate in panel proceedings.
- Second, it can support the provision of more government resources and resolve to defend U.S. trade laws in WTO appeals in Geneva. In order to counter the efforts of unfair traders to use the WTO dispute settlement process to undermine our fair trade rules, the Administration must combine diplomatic and litigation efforts and begin to defend much more aggressively the trade laws enacted by Congress.
- Third, it can support prompt enactment of legislation to establish a WTO Dispute Settlement Review Commission. First proposed in 1995 by Senators Dole and Moynihan, such a Commission would be an important first step in reining in the WTO dispute settlement system and ensuring that future WTO panels do not exceed or abuse their authority.

No Trade Law Weakening Through WTO Accessions

AISI's U.S. member companies agree that Russia and other nations of the Commonwealth of Independent States (CIS) should be accepted into the WTO, but only on commercially viable terms. In this regard:

- As was done in the case of China's accession, WTO members should have the right to continue to apply nonmarket economy AD methodology until steel and other key sectors of the CIS economies become fully market-oriented.
- The CIS countries should end immediately all direct and indirect steel subsidies that distort trade, and adhere immediately to all of the disciplines in the WTO Subsidies Agreement.
- As was done in the case of China's WTO accession, a special safeguard should be put into the CIS accession protocols that enables other WTO members, during a transition period, to act against market disruption caused by a surge of CIS imports.
- In addition, there must be close monitoring of China's and Taiwan's WTO commitments to ensure that they are being strictly and promptly complied with and fully implemented.

Key Points to Remember about Global Trade Negotiations on Rules

Japan and other countries that maintain sanctuary markets for their domestic steel industries and tolerate cartels and other anticompetitive behavior want to

weaken the WTO's AD rules. Countries that continue to subsidize their inefficient industries want to weaken the WTO's CVD rules.

For more than 50 years, countries have been allowed to use AD/CVD laws to counter injurious unfair trade, because these laws help ensure that *more efficient* domestic producers are not weakened or destroyed by *less efficient* foreign firms. These laws serve the long term interest of customers, consumers, the economy, free trade and the multilateral trading system.

In recognition that 201 steel trade relief is coming, that massive world steel overcapacity still exists and that the United States will no longer be able to be used as the WORLD'S STEEL DUMPING GROUND, foreign countries would be well advised to re-evaluate their past support for trade law weakening through the WTO. In the meantime, the steel industry in the NAFTA region continues to speak with one voice on the need to preserve effective AD/CVD laws. It is the united position of AISI's Canadian, Mexican and U.S. members that we:

- support free trade and open markets;
- support the effective fair trade rules that make them possible;
- support reform of the WTO dispute settlement system; and
- oppose all efforts to put AD/CVD rules on the negotiating table—whether in a new WTO round, the FTAA or new bilateral FTAs.

The FTAA and Regional Trade Negotiations

In April of 2001, AISI joined with our colleagues in the Latin American Iron and Steel Institute (ILAFA) and submitted to the Sixth Business Forum of the Americas an unprecedented joint position statement on the FTAA by a hemispheric sector. Together with the Brazilian steel industry, we even included a short section on the issue of trade laws in our joint submission. It simply says that, "The trade laws of each Western Hemisphere country should be enacted and applied according to the criteria of transparency, due process and procedures that are consistent with World Trade Organization (WTO) rules—[and] On the subsidy issue, the negotiations should aim at improving the level of discipline established in WTO rules."

AISI *supports* the ongoing negotiations to achieve an acceptable FTAA. We have long supported the view that, *if it is done right*, further trade liberalization in the Western Hemisphere could yield significant benefits to competitive U.S. steel producers and their world-class domestic customers.

Ironically, it is the *other side* on the trade law issue that is *endangering the prospects for both* the FTAA and a new WTO round. We believe that the Administration understands this, that it wants to see the FTAA and other free trade initiatives succeed, and that it shares our view that effective rules and disciplines against unfair trade serve the cause of free trade.

As a strong and early supporter of the North American Free Trade Agreement (NAFTA), AISI is concerned that public support for the NAFTA has eroded. It is worth recalling that the U.S. government was unwilling to see AD/CVD laws weakened in the NAFTA, which is a region where we share contiguous borders and where economic integration is well advanced. Yet, even so, public support for the NAFTA is slipping.

The need to avoid trade law weakening of any kind in the FTAA is strongly supported by AISI's entire North American membership. In February of 2001, AISI's Canadian, Mexican and U.S. member companies urged our respective governments to "agree to nothing in an FTAA that would lead to less effective trade laws in the NAFTA region or to any diminution of trade law rights in North America."

There Must Be No AD/CVD Weakening of Any Kind in the FTAA

This bedrock principle of no FTAA weakening of existing AD/CVD laws means that any trade law weakening proposals should be immediately rejected by the U.S. government as a total non-starter. Instead, just as in the Doha Round, our government should make it clear that the real issue in international trade is dumping, closed markets, trade-distorting subsidies and private anticompetitive behavior—not the U.S. laws that the Congress has enacted to counter foreign unfair trade. Therefore, the Administration should insist that other countries in the FTAA:

- open up their home markets;
- eliminate their trade-distorting subsidies; and
- end their private anticompetitive practices in sectors such as steel.

In addition, if any FTAA country, in negotiations with the United States, recommends that the U.S. agree to eliminate, weaken or amend in any way U.S. AD/CVD laws, the only acceptable U.S. government response should be that:

- There will be no substantive changes of any kind in U.S. AD/CVD laws;
- There will be no extension of the NAFTA's Chapter 19 binational panel AD/CVD appellate process to other FTAA countries; and

- The only subject with respect to trade laws where there is something to talk about is the need for greater transparency and due process in the way other FTAA countries administer their AD/CVD laws.

Accordingly, we commend the Administration for its proposal, tabled at the July meeting of the FTAA negotiating group on subsidies, antidumping and countervailing duties. That proposal would replace a proposed separate FTAA AD/CVD chapter with a single statement that countries reserve the right to use AD/CVD remedies consistent with WTO rules.

The Bracketed FTAA "Draft Chapter" Would Devastate U.S. Law

What we find in the bracketed AD/CVD negotiating text of the FTAA are suggested changes from other governments that would have a devastating impact on U.S. trade laws, as they would apply to FTAA countries.

Simply put, the draft FTAA Chapter on Subsidies, Antidumping and Countervailing Duties ("Draft Chapter") is so badly flawed, there can be only one U.S. government response: total rejection.

Instead of leading to a higher level of FTAA discipline against unfair trade than exists currently in the WTO—which ought to be the goal—the proposed changes, taken as a whole, would lead to weaker AD/CVD rules in the FTAA than in the WTO. The stated ultimate objective would be to eliminate AD measures entirely once the FTAA is established and goods are circulating among FTAA member countries "fundamentally free of restrictions." In the meantime, the proposed changes would:

- endorse all but the most severely injurious dumping and subsidization by FTAA members;
- make U.S. AD/CVD laws *essentially unusable* against injuriously dumped and subsidized imports from FTAA countries;
- raise serious WTO (most-favored-nation) concerns among non-FTAA countries about trade diversion and discriminatory treatment; and
- make it harder to get relief against unfairly traded goods from all regions.

The bottom line is that the Administration should send a clear, immediate and unmistakable signal to our FTAA negotiating partners that:

- The Draft Chapter and its myriad forms of trade law weakening will never be accepted by the United States in whole or in part;
- Neither the Administration nor the Congress nor the American public will ever accept the Draft Chapter's approach to AD/CVD laws, which is "death by a thousand cuts"; and
- This campaign to try to use the FTAA to weaken AD/CVD laws is damaging public support in the U.S. for the FTAA.

Message to Brazil and Other Trade Law Opponents

An FTAA should promote freer, *rules-based*, trade—not turn the U.S. market into a dumping ground. This will be a free trade agreement, not a customs union or a common market, and it is worth noting that South America's steel producers have used AD law against each other, *even within* the MERCOSUR customs union. An FTAA will not eliminate unequal conditions of competition or the potential for trade-distorting practices. It will lead, we hope, to growing economic integration in our hemisphere and, to the extent that dumping diminishes over time as a result of this increased integration, to a decrease in the need to turn to AD law, as it has in the NAFTA region.

Bilateral Free Trade Agreement Negotiations

Whether the bilateral FTA is with Chile or Singapore or some other country, it is an almost sure bet that the other country will attempt to get special treatment with regard to U.S. trade laws.

No Trade Law Weakening Through Bilateral FTAs

The exact same points that apply to the global trade negotiations in the WTO Doha Round and in the hemispheric negotiations to achieve an FTAA apply to bilateral FTAs. Thus, AISI and its U.S. members will strongly oppose any effort to try to use bilateral FTAs to eliminate or weaken AD/CVD rules and other U.S. trade laws in bilateral trade with the U.S. The United States should agree to *no language in any FTA* that would lead to less effective U.S. trade laws or to any diminution of U.S. trade law rights.

No Weakening of Steel Buy American Rules Through Bilateral FTAs

In addition to trade laws, a second major area of significant concern to AISI's U.S. member companies is the need to preserve WTO-legal steel Buy American rules, whether in a new global round of trade negotiations or in regional or bilateral FTAs.

AISI's U.S. members support enhanced foreign government procurement opportunities for U.S. firms, especially steel's U.S. customers. Thus, we would like to see prospective FTA countries assume commitments to promote more open access to entities and greater transparency in the government procurement bidding process. At the same time, given the failure of many foreign governments to live up to their existing government procurement obligations—and given the lack of equitable results achieved to-date from government procurement liberalization—AISI's U.S. members remain totally opposed to any weakening of current steel Buy American rules.

With respect to FTAs and government procurement, the NAFTA stands as a model of how to make additional, incremental progress in this area of a kind that AISI's U.S. members support. It achieves progress by providing for greater transparency, higher thresholds and a bid protest procedure.

AISI appreciates this opportunity to provide written comments to the Senate Finance Committee on trade negotiations and stands ready to supply any additional information the Committee might wish to have.

STATEMENT OF MATTEL, INC.

This statement is submitted on behalf of Mattel, Inc. in connection with the February 6 hearing conducted by the Senate Committee on Finance regarding the U.S. trade agenda. Mattel strongly supports the continued elimination of trade barriers globally, and believes that the enactment of legislation renewing the President's trade promotion authority (TPA) will play a critical role in achieving this objective by providing a needed impetus to pending multilateral, regional and bilateral trade negotiations. Of these, the most important to Mattel is the new round of multilateral trade negotiations under the WTO that was launched last November in Doha. Within this new round, the company attaches the highest priority to the earliest possible conclusion of zero-for-zero sectoral agreements on toys and other products.

Headquartered in El Segundo, California, Mattel is the world's largest toy company with 2001 sales of $4.8 billion in over 150 countries. Mattel has 29,000 employees, of whom 6,000 are in the United States.

Mattel and other U.S. manufacturers of toys are the most competitive in the world, and would stand to reap major benefits from the further dismantling of global trade barriers. Also benefiting directly from a reduction of trade barriers would be the 32,400 U.S. workers employed by the U.S. toy industry.

The U.S. toy industry achieved its position as the world's leader by combining high value-added domestic operations, such as product design, engineering and strategic marketing, with substantial production overseas. As a result, a large portion of U.S. toy companies' product lines are manufactured overseas, but even those toys incorporate important U.S. value. In the case of Mattel, that value includes the critical functions of product conceptualization and design, design and development engineering, and strategic marketing that are performed for the company's worldwide operations by the approximately 1,900 workers at its El Segundo headquarters.

With only 3 percent of the world's children living in the United States, U.S. toy companies must turn increasingly to foreign markets for industry growth. Although the United States has the largest toy market in the world, the growth in domestic sales by U.S. toy companies has been modest in recent years, reaching $23 billion in 2000. However, sales by U.S. toy companies in foreign markets (including U.S. exports and sales by overseas subsidiaries) have expanded at a rapid pace, totaling an estimated $6.0 billion in 2000.

While the toy industry has been successful in penetrating overseas markets, that growth frequently has been limited by significant trade barriers. For example, most major developing country markets throughout the world are protected by tariffs of 20 percent or more on toys. These high tariffs will remain in effect even after the final concessions from the Uruguay Round of WTO negotiations are implemented in 2004.

In addition, while the United States, the European Union, Canada, Japan and Korea agreed to participate in a zero-for-zero agreement on toys under the Uruguay Round, this agreement left much to accomplish. While the United States immediately eliminated its tariffs on all toy categories, the other four countries participating in the agreement excluded several major toy categories from their tariff elimination commitments. For example, both the European Union and Japan have left in place tariffs on categories accounting for over half of their respective total imports of toys. Since these economies represent the largest overseas markets for most U.S. toy companies, these gaps pose a major continuing problem.

In an effort to build on the Uruguay Round zero-for-zero agreement on toys, Mattel and the U.S. toy industry in 1996 enlisted the aid of the U.S. government to secure the inclusion of toys in the consultations on early voluntary sectoral liberalization (EVSL) conducted under the auspices of the Asian-Pacific Economic Cooperation (APEC) forum. APEC leaders in 1998 then forwarded these EVSL talks, which covered toys and seven other sectors, to the WTO for final agreement. First known in the WTO as the Accelerated Tariff Liberalization (ATL) initiative, these sectoral talks now are being considered for inclusion in a possible zero-for-zero initiative in the newly launched round of WTO negotiations.

There is a strong consensus among global toy industries for concluding a new zero-for-zero agreement on toys, ranging from the European toy industry to those of 15 APEC countries. Moreover, much of the work required to craft a zero-for-zero agreement on toys has already been completed through the earlier APEC process. In short, the parameters of an agreement are already in place and a "critical mass" of participating countries has already been identified.

What is needed now is for WTO negotiators to step forward and conclude zero-for-zero agreements on toys and other sectors where international consensus can be readily achieved. In particular, Mattel urges that negotiators seek the accelerated conclusion of these zero-for-zero agreements in advance of the completion of the rest of the round, with the goal of finalizing the agreements by the Fifth WTO Ministerial meeting to be held in Mexico in mid-2003. These sectoral agreements can serve as an early concrete signal of WTO members' commitment to a successful round, with the specific commitments made as part of the zero-for-zero agreements to be implemented on a provisional basis and considered an integral part of countries' overall commitments in the new round.

In addition to concluding a sectoral zero-for-zero agreement on toys, Mattel is seeking the deepest possible reduction in those foreign tariffs on toys that will remain following the completion of the zero-for-zero agreement. Assuming the sectoral agreement is concluded along the lines currently envisaged, the primary focus of these follow-on negotiations would be the high tariffs maintained by those countries that do not participate in the zero-for-zero agreement on toys. These are likely to include many Latin American countries, including the major markets represented by Brazil, Argentina and Mexico.

In conclusion, Mattel strongly supports the ongoing efforts of the United States to reduce global trade barriers. In particular, Mattel urges the U.S. government to secure a sectoral zero-for-zero agreement on toys as quickly as possible as part of the new round of WTO multilateral negotiations.

We appreciate this opportunity to share Mattel's views with the Committee on Finance.