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The WTO Trade Policy Review of the United States, 1996

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ABSTRACT

This paper assesses the major developments in U.S. trade policies since the creation of the WTO in 1995. It is based in large measure on the fourth biannual (1996) WTO Trade Policy Review of the United States and updated through 1997. The discussion and assessments include in particular: the major U.S. multilateral trade-policy issues and activities centered in the WTO: issues and activities relating to NAFTA; U.S. bilateral trade relations with its major trading partners; administration of U.S. trade laws and regulations; and U.S. agricultural trade policies.

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1. INTRODUCTION

This paper is designed to assess the major developments in U.S. trade policies that have occurred since the advent of the World Trade Organization (WTO) in January 1995, and that are covered in the fourth biannual review of the United States conducted under the auspices of the WTO Trade Policy Review Mechanism (WTO, 1997b).

In Deardorff and Stern (1997a), we had occasion to review the central features of different modeling approaches to the political economy of trade policies and to assess the extent to which the U.S. trade-policy process reflected the role of different constituent groups. One of our main conclusions was that actions of the Executive Branch of the U.S. Government in the past half-century can be interpreted as generally seeking to achieve the benefits of freer trade. This is not to deny the importance of protectionist influences in designing measures of import restraint to protect particular sectors and the use of unilateral measures to improve foreign market access and market share for export sectors. But what is important and is revealed in the sectoral case studies in Krueger (1996) and in Deardorff and Stern (1997b) is that many of these protectionist and market-access measures have been considerably diminished or even removed in the course of time. Furthermore, the Executive Branch orientation towards freer trade has been coupled with and reinforced by U.S. leadership and participation in the successive rounds of multilateral trade liberalization under GATT auspices. Now that the GATT has been subsumed by the WTO and that the rules and procedures that govern the conduct of international trade have been strengthened institutionally, especially on matters involving dispute settlement, it is of interest to assess how U.S. trade policies have been evolving in this newly created WTO environment.

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For background purposes, the reader is referred to Stern (1997) for information on selected trade events for 1995 and selected trade agreements activities for 1996 that will enter into our discussion.[1] We will also refer in what follows to important developments in 1997.

We begin in Section 2 below with a review of the major U.S. multilateral trade-policy issues and activities that have been centered especially in the WTO and in the Organization for Economic Cooperation and Development (OECD). In Section 3, we address issues and activities relating to regional trading arrangements, in particular the North American Free Trade Agreement (NAFTA), Free Trade Area of the Americas (FTAA), and the Forum for Asia Pacific Economic Cooperation (APEC). U.S. bilateral trade relations with its major trading partners are discussed in Section 4. Section 5 is devoted to administration of U.S. trade laws and regulations, including safeguard actions, adjustment assistance, "unfair" trade practices, and textiles and apparel. Section 6 deals with U.S. agricultural trade policies. Finally, conclusions and implications comprise Section 7.

2. U.S. MULTILATERAL TRADE-POLICY ACTIVITIES

a. The World Trade Organization (WTO)

The WTO came officially into existence in January 1995 and since then has become the center of focus for multilateral trade-policy activities for the member countries. It would take us too far afield to review the various component activities of the WTO, and, in any event, they are described in some detail in USITC (1996, 1997).[2] We shall concentrate accordingly on the agenda and results of the first Ministerial Conference that was held in Singapore in December 1996 and the functioning of the Dispute Settlement Body.

[1] Stern (1997) also contains information on the authority for U.S. trade policy and the making of trade policy in the Executive Branch of the U.S. Government.

[2] The structure of the WTO is depicted in USITC (1997, p. 14).

(i) The Singapore Ministerial Conference

The main agenda items and results of the Singapore Ministerial Conference are summarized in Table 1. While there may be differences in perspective about the outcome of the Singapore Conference, I would consider the following to be among the most significant accomplishments:

1. Negotiation of an Information Technology Agreement (ITA)[3] –What is especially noteworthy about the ITA is that it was built upon the recommendations of both U.S. and European Union (EU) business firms in connection with the development of the New Trans-Atlantic Agenda that was designed "to reinvigorate the trans-Atlantic partnership." The ITA is thus a prime example of the role that private sector firms have played in pursuing further trade liberalization.

2. Reciprocal elimination of duties on over 6,000 pharmaceutical products as the result of a "zero-for-zero" initiative by the United States, again reflecting private sector influence.

3. New issues:

   Core labor standards – The International Labor Organization (ILO) was declared to be the competent international body to deal with these standards, effectively eliminating or downplaying the role that the WTO might play. Organized labor in the United States had been pushing strongly for including labor standards in the WTO agenda and for using trade sanctions to enforce WTO compliance of member countries. WTO authority on labor standards was opposed most especially by the Asian developing countries.

4. Services Negotiations

- Basic Telecommunications – These negotiations were intended to conclude by April 1996, but the United States demurred because offers by other WTO member countries were judged to be insufficiently trade liberalizing. Negotiations were subsequently reopened and concluded on February 15, 1997, with an agreement to take effect in February 1998. The agreement binds 69 countries and covers 91% of an estimated $600 billion in annual global telecommunications revenues according to USITC (1997, p. 39).

- Financial Services – The initial negotiations concluded in July 1995 were judged by the United States to be inadequate because many countries did not provide significantly full market access and national treatment. Under the circumstances, the United States opted for an MFN exemption so that it could apply reciprocity in making its offers. These negotiations were subsequently resumed and concluded on December 12, 1997. According to the USTR Press Release 97-104, the agreement involves market-opening commitments by 102 WTO members and covers 95% of the global financial services market encompassing $17.8 trillion in global securities assets, $38 trillion in global (domestic) bank lending; and $2.2 trillion in worldwide insurance premiums.

- Maritime Services – Negotiations covering international shipping, auxiliary shipping services, access to port facilities, and multimodal transportation commenced in 1994 but were suspended in June 1996 because of the belief of the United States and some other partici-

[3] The origins of the ITA are described in USITC (1997, p. 21).

pants that inadequate offers had been tabled. Negotiations are to be resumed as part of the comprehensive negotiations on trade in services in the year 2000 under the auspices of the General Agreement on Trade in Services (GATS). As noted in the WTO review (pp. 166-68), the Jones Act of 1920 requires that water-borne goods transported between U.S. ports (i.e., cabotage) be carried in U.S. flag-ships. However, cabotage as such was excluded from the negotiations. The United States also requires that exports of Alaskan oil be carried on U.S. flagged and manned vessels. In view of the protectionist aspects of U.S. maritime policies, it seems likely that U.S. opposition to maritime services liberalization will continue.

(ii) Dispute Settlement Actions

One of the most important aspects of the WTO was the redesign and strengthening of the Dispute Settlement Mechanism.[4] Compared to the previous dispute settlement procedures in the GATT, it is now no longer possible to block establishment of a panel or for a party to block panel reports. Opportunities for arbitration have been increased, time limits applied for completion of panel investigations, standard terms of reference specified, and improvements made in surveillance of the implementation of panel reports. Because WTO member countries have agreed, when possible, to use multilateral remedies in trade disputes, the scope for resort to unilateral trade measures may be reduced. Further, because the WTO has broader coverage than the GATT, more disputes may be referred to the WTO Dispute Settlement Body (DSB).

Hoekman and Kostecki (1995, pp. 49, 179-80) note that 132 complaints were lodged in the GATT dispute settlement procedure between 1948 and 1994. In contrast, according to WTO (1997a), from January 1, 1995 to January 16, 1998, there have been 116 consultation requests made for dispute settlement on 81 "distinct matters." The consultation requests are broken down by complainant and respondents in Table 2.[5] It is evident that the United States has brought 41 complaints in total, 23 in total against Japan, the European Communities (EC) and individual EC member countries, and other industrialized countries, and 18 against developing countries. The developing countries as a group have brought 39 complaints in total, 15 of which have been against the United States.

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[4] See Stern (1997) for a brief description of the WTO Dispute Settlement Mechanism; also Hoekman and Kostecki (1995, esp. pp. 44-50) and Jackson (1997).

[5] It should be noted that the total number of complaints (125) in Table 3 reflects individual cases involving more than one country requesting consultation with the respondent.

The U.S. dispute settlement actions cover a broad range of WTO administered agreements. This can be seen in Table 4, which covers the year ending October 1, 1997. Perhaps the highest profile action noted is the one filed against Japan's alleged barriers to market access for photographic film and paper and barriers to distribution and retail services. As noted in ITC (1997, p. 99), this first began as a Section 301 action on behalf of Eastman Kodak against the Fuji Photo Film company. After efforts were made unsuccessfully to address the issues bilaterally, a dispute settlement panel was automatically established on October 16, 1996. On December 5, 1997, the WTO panel decision was announced, and all 21 points in the U.S. filing had been dismissed on the grounds that the alleged Japanese Government barriers had no perceptible impact on the competition between imports and domestic products.[6] The panel's decision is presently being reviewed and is certain to be sent for appeal by the United States to the WTO Appellate Body. The Kodak-Fuji case is significant insofar as it represents the first case in which a WTO panel decision did not support the U.S. position. As noted in Table 4, the United States had achieved favorable panel rules in six cases prior to the Kodak-Fuji decision. The decisions on Canada's restrictions on magazine advertising, the EU import rules on banana imports, and the EU beef hormone ban are especially noteworthy insofar as they have established important precedents that limit the use of restrictive policies.[7] Table 5 contains information on settlements favorable to the United States that were reached as part of the WTO consultation process and without the need for creation of a panel.

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[6] According to USTR Press Release 97-102 (December 5, 1997) the panel decision drew a sharp reaction from Ambassador Charlene Barshefsky. "The panel's findings simply do not address market realities. Even within Japan, it is common knowledge that Japan's market is overregulated, its distribution system is closed and exclusionary business practices are prevalent."

[7] It will be interesting in this connection to see how the U.S. Congress reacts to future WTO panel decisions unfavorable to the United States. As noted in WTO (1997b, p. 24):

> "Parallel to the ratification of the Uruguay Round Agreement by the U.S. Congress, the administration agreed to support a proposal which would, if appropriate legislation were enacted, establish a commission of five federal judges to monitor WTO dispute-settlement reports that rule against the United States; the legislation is still in its formative stages. The Commission would consider whether a panel or the Appellate Body exceeded its authority or terms of reference, added to the obligations or diminished the rights that the United States assumed under the Agreements or acted arbitrarily or capriciously or otherwise departed from the procedures set out for panels and the Appellate body under the agreements. Following an affirmative decision by the Commission, Congress may pass a joint resolution that calls upon the President to negotiate new dispute settlement rules to correct the problem indicated by the Commission. If the Commission makes three affirmative determinations within a five-year period, Congress may pass a joint resolution withdrawing approval of the WTO Agreement."

As noted in Table 2, there have been 23 actions filed against the United States. Details on these actions are provided in Table 6. Listed under Appellate Reports Adopted, one of the first panel decisions reached in the WTO was the case involving different standards for imports of reformulated and conventional gasoline from Venezuela and Brazil that was decided in favor of the complainant countries. Under Active Panels, the extra-territorial provisions of the Helms-Burton Act regarding dealings in confiscated property in Cuba have been challenged by the EC. The Clinton Administration has to date managed to postpone taking any actions under the Helms-Burton Act on the grounds that it is working with trading partners to develop appropriate multilateral disciplines in dealings with Cuba. However, there is no guarantee that the EC and other countries directly affected such as Canada and Mexico will refrain from a direct challenge on the issues in the WTO. A related and potentially much bigger issue is posed by the Iran and Libya Sanctions Act (ILSA) of 1996 that requires the President to impose sanctions on any U.S. or foreign person or company that makes investment in petroleum resources of $40 million or more in these countries. According to *The Financial Times* (October 3, 1997, p. 12), the French energy group, Total, has been joined by Russia's Gazprom and Malaysia's Petronas in signing a $2 billion contract to develop a gas field in Iran. So far, dispute settlement complaints about ILSA have not been lodged in the WTO. But here again, in order to avoid a direct confrontation in enforcing ILSA, some sort of waiver will have to be worked out by the Clinton Administration. The other Active Panel listing relating to import prohibition of certain shrimp and shrimp products is a further example of extra-territorial extension of U.S. policy, in this case on environmental grounds. It is akin to the GATT tuna-dolphin case which was decided against the United States in 1991 on grounds that policies designed to force changes in process standards were inconsistent with the GATT.[8]

[8] It is noteworthy that even though Mexico especially has made a concerted effort in recent years to get its tuna fishing fleet to change its production methods and has been able to bring about significant reductions in dolphin kill, it has not been possible because of opposition from some environmental interests to lift the existing ban on tuna imports from Mexico. See USITC (1997, pp. 105-06) for further details. The U.S. Marine Mammal Protection Act of 1972 is still being applied to ban tuna imports from a number of other countries according to USITC (1997, p. 164).

The Pending Consultations and Settled Cases or Inactive Panels listed in Table 6 refer mainly to issues involving U.S. antidumping (AD), safeguards, countervailing duties, product standards, and changes in tariffs. An exception is the EC challenge of the Commonwealth of Massachusetts prohibition involving public procurement from persons doing business with Myanmar (Burma). As will be noted below, the (AD) investigation regarding imports of fresh or chilled tomatoes resulted in a 5-year suspension agreement providing that tomatoes imported from Mexico would be sold at, or above, an established reference price.

(iii) Other Trade Activities in the WTO

In addition to what has been discussed, there have been many other ongoing trade activities in the WTO involving U.S. participation. These include the WTO Trade Policy Review Body, Councils on Trade in Goods, Services, Trade-Related Intellectual Property Rights, and the various plurilateral agreements, including Government Procurement. Details can be found in USITC (1997, pp. 32-43).

b. Organization for Economic Cooperation and Development (OECD)

The OECD is the main forum in which common economic and social issues are discussed by the 29 member countries. In particular, the OECD Trade Committee has been especially influential in defining the agenda for multilateral trade negotiations and carrying out the preliminary work on a variety of other important policy issues, including the Multilateral Agreement on Investment (MAI), ways to deal with bribery and corruption in international business transactions, trade and labor standards, and shipbuilding.

According to USTR (1997b, p. 4), key elements of the MAI should include:

- "the better of national or MFN treatment, including in making investments, with only limited exceptions;
- freedom from performance requirements;
- freedom to make any investment-related transfer, including of profits, capital, royalties, and fees;
- international law standards for expropriation, including that compensation must be prompt, adequate, and effective; and

- access to binding international arbitration of disputes between an investor and the state."

Negotiations of the MAI are currently in progress in the OECD and will be open to all countries willing to undertake the obligations involved. These issues are also being addressed in the WTO.

With respect to bribery and corruption, the United States has been active in trying to influence all OECD member countries to eliminate the tax deductibility of bribes to public officials, criminalize bribery, and determine whether an international treaty or some other instrument would best accomplish these objectives. The OECD issued a comprehensive study on trade and labor standards in May 1996 that provided important background for a discussion of these issues at the WTO Ministerial Meeting in Singapore in December 1996. As noted above, it was essentially decided at the Singapore Ministerial to refer issues of labor standards for consideration by the International Labour Organization rather than the WTO. OECD negotiations on an international agreement for shipbuilding were completed in 1994 and covered such issues as elimination of subsidies, dumping, limitations on official financing, and dispute settlement. This agreement was signed and ratified by the EU, Japan, Korea, and Norway, but it has been stalled due to opposition in the U.S. Congress.

The Trade Committee's agenda currently includes discussion and work on a variety of other issues, including: international aviation policy; regulatory reform; competition policy; biotechnology and trade; trade and environment; contacts with non-member countries; and export credits.[9]

3. U.S. REGIONAL TRADE ACTIVITIES

a. North American Free Trade Agreement (NAFTA)

The NAFTA, which involves the United States, Canada, and Mexico, was implemented beginning in January 1994. Under the NAFTA , the tariffs of the member countries are being significantly reduced, nontariff barriers (NTBs) addressed, protection provided to foreign investors and owners of intellectual property rights, trade in services liberalized, and procedures established for dispute settlement.

[9] For details, see USTR (1997b, pp. 6-8) and USITC (1997, pp. 43-45).

The NAFTA also has side agreements relating to trilateral cooperation on environmental and labor issues. A Free Trade Commission composed of trade officials from each country oversees the NAFTA, and there are various committees and working groups that are responsible for the actual functioning of the NAFTA and for particular technical matters that may arise. A detailed discussion of operation of the NAFTA lies outside the scope of the present paper.[10] We shall focus accordingly on a number of bilateral disputes that have arisen between the United States and its NAFTA partners.

(i) Canada

The most significant irritants in U.S.-Canadian trade relations in recent years include the following:

- In February 1995, the USTR initiated a Section 301 investigation of a Canadian Government decision to terminate the broadcasting license of a U.S.-based cable service (Country Music Television (CMT)) operating in Canada. The investigation was terminated in 1996, following an agreement between CMT and a Canadian company to set up a single country music network, Country Music Television Canada.
- Objections to the extra-territorial sanctions imposed by the U.S. Helms-Burton (Libertad) Act of 1996. This issue is temporarily in abeyance pending the outcome of diplomatic discussions relating to agreements on policies that are applied to relations with Cuba.
- Disagreement in 1994 over the priority of NAFTA bilateral commitments and Uruguay Round multilateral commitments on agriculture. Canada maintained that the Uruguay Round tariffication of barriers to its imports of dairy and poultry products resulting from its supply management system held precedence over the NAFTA objective of eliminating tariffs. A panel appointed under the dispute settlement procedure of NAFTA, Chapter 20, upheld the Canadian position unanimously in December 1996.
- A longstanding dispute dating from 1991 about alleged Canadian subsidies of softwood lumber exported to the United States culminated in the April 2, 1996 Softwood Lumber Agreement. This 5-year agreement set annual allocations and fees for lumber exports from British Columbia, Quebec, Alberta, and Ontario. In turn, U.S. lumber companies, unions, and trade associations pledged to forego asking for restrictive measures and the U.S. Department of Commerce would desist from initiating or accepting any requests to limit softwood lumber imports from Canada so long as the agreement remained in effect and was binding.
- On the basis of a WTO panel ruling, the United States successfully challenged a December 15, 1995 decision of the Government of Canada to impose an 80 percent tax on split editions of foreign magazines published in Canada.
- Under the NAFTA rules of origin for textiles and apparel, a "yarn forward" rule specified that all components and inputs must be made in the NAFTA countries. However, under the Canada-U.S.

[10] For an extended discussion of the operation of the NAFTA, see especially USITC (1997, pp. 55-75) and President Clinton's 1997 report submitted to the Congress.

Free Trade Agreement of 1989, a "fabric forward" rule permitted foreign yarn to be used in products made in either country. This latter rule was followed by Canada, which was able to increase its exports of wool suits significantly insofar as they were exempt from the 36 percent U.S. import duty. Congressional efforts to restrict these imports from Canada have been unsuccessful.

(ii) Mexico

- In December 1995, the U.S. Secretary of Transportation suspended processing of applications by Mexican trucking firms to serve U.S. border states pending resolution of safety concerns that had been raised especially by the U.S. Teamsters union. Despite protests that this was in violation of the NAFTA and that U.S. cross-border trucking interests were being hurt, the issue remains unresolved.
- The USTR determined in April 1996 that Mexico was not in compliance with NAFTA requirements for accepting U.S. telecommunications test data and standards relating to telecom terminal equipment authorization. Subsequent consultations appear to have resolved this dispute.
- The USTR has expressed concern about piracy and counterfeiting of U.S. intellectual property in Mexico. A reform of intellectual property law was passed by the Mexican Congress in December 1996 that may serve to address U.S. concerns.
- In October 1996, a 5-year suspension agreement was signed specifying that tomatoes imported from Mexico will be sold in the United States at, or above, an established reference price, and that no anti-dumping duties would be assessed on Mexican tomatoes as long as the agreement remained in effect. The dispute settlement request for consultation on this issue filed in the WTO by Mexico was subsequently withdrawn.
- In 1996, efforts were made in the U.S. Congress to change the U.S. Marine Mammal Protection Act and lift the embargo on tuna caught and processed by Mexico. This embargo has remained in effect despite the GATT 1991 tuna/dolphin panel decision that had ruled against the U.S. position. Mexico has since complied with newly specified U.S. standards on dolphin protection, but the U.S. Congress did not pass the new legislation because of opposition from some environmental groups.
- In January 1997, the U.S. Department of Agriculture instituted a partial lifting of an 83-year old embargo on avocados imported from Mexico, despite opposition from California avocado growers. The original embargo had been imposed to prevent possible fruit fly contamination.
- Safeguards action on broomcorn brooms. The USITC found evidence of serious injury, and tariffs were increased for a three-year period on two categories of brooms. Mexico retaliated in December 1996 by raising tariffs on eight U.S. products. In January 1997, Mexico requested establishment of a dispute settlement panel under NAFTA Chapter 20.

b. Free Trade Area of the Americas (FTAA)

At the first Summit of the Americas held on December 9-11, 1994, a U.S. proposal was adopted to establish an FTAA by the year 2005. Eleven working groups have been set up to provide the groundwork for subsequent negotiations, with significant involvement of private sector firms. Meetings were held in Belo Horizonte, Brazil, in May 1997. A services business forum was held in Cartagena, Colombia in 1997 and Santiago, Chile, in September 1997. The second Presidential Summit will be held in

Chile in March 1998 to assess the prospects and make recommendations for future negotiations. It remains to be seen what concrete results may be achieved, in particular whether and how the FTAA will be coordinated with existing regional trading arrangements in the Western Hemisphere.

c. Asia-Pacific Economic Cooperation (APEC)

On November 15 , 1994, a Declaration of Common Resolve (the "Bogor Declaration") was issued by the APEC member countries to establish the goal of an environment of free and open trade and investment within the APEC region in a manner that would be consistent with GATT principles. The industrialized countries would be expected to reach the goal by 2010 and the developing country members by 2020. Commitments were also made for continuation of unilateral liberalization, full and accelerated implementation of Uruguay Round commitments, standstilll on introduction of protectionist measures, and facilitation of trade and foreign direct investment. The Osaka Action Agenda was agreed upon by APEC members in November 1995, and a series of working groups was established to provide policy concepts and recommendations on particular activities. Efforts have been made to involve business participation in all aspects of the work program. Because of differences in levels of per capita income, stage of development, factor endowments, technological advancement, and government policies, it remains to be seen whether or not it may be possible to reach consensus among APEC member countries especially on issues relating to the liberalization of trade and foreign direct investment.

4. U.S. BILATERAL TRADE POLICIES

Up to this point, we have covered some of the major aspects of U.S. multilateral and regional trade activities. Besides these activities, the United States is deeply involved in a variety of bilateral trade relations with its major trading partners. In what follows, we shall note some of the most important bilateral initiatives for selected trading partners that have occurred since 1995. More details on these and other trading partners can be found especially in USTR (1997b) and USITC (1996, 1997).

a. Japan

As noted in USITC (1997, p. 95), at the end of 1996, the United States had 45 major bilateral agreements with Japan. The primary focus of these agreements involves trying to increase the access of U.S. firms to the Japanese market.

- **Semiconductors.** On August 2, 1996, an agreement was reached to replace the U.S.-Japan Semiconductor Arrangement that expired on July 31, 1996. Under the new agreement, the two governments will no longer jointly calculate the foreign share of Japan's semiconductor market, although the U.S. Government will continue its own calculations. There will be a continuation and expansion of industry cooperative activities and periodic market reports and analysis. These agreements were opened for participation by other interested governments and industries. A Global Governmental Forum (GGF) was established to discuss semiconductor policy issues. The first meeting of the GGF took place in December 1966 and included Japan, the United States, EU, and Korea.

- **Autos and Parts.** The U.S.-Japan Automotive Agreement was signed on August 23, 1995. The intentions were to: improve foreign access to Japanese auto dealerships; facilitate increased auto and auto parts imports into Japan; promote increased purchases from non-keiretsu parts suppliers in Japan and the United States; address automobile and technical standards that may hinder imports into Japan; provide Japanese vehicle registration data equally to foreign and Japanese vehicle manufacturers; and deregulate barriers on selling replacement parts in the Japanese aftermarket. Criteria were announced to evaluate how the agreement was working, and the United States established an Interagency Enforcement Team to monitor compliance. Even though certain specific targets were specified in the Agreement, the Japanese Government considers them only advisory and not mandatory. The United States has nonetheless continued to monitor and report on compliance with the targets.

- **Insurance.** A U.S.-Japan Insurance Agreement was signed on October 14, 1994, with the objective of increasing access and sales by foreign providers in the Japanese insurance market. The life and non-life sectors account for 95% of Japan's insurance market, and the remainder is in the "third" sector that involves insurance against cancer, personal accidents, and hospitalization. On April 1, 1996, a revision of Japan's Insurance Business Law was enacted and would permit subsidiaries of Japanese insurance firms to sell third-sector products. This was contested by the U.S. Government on grounds especially that market access in Japan's life and non-life insurance sectors remained restricted. A bilateral agreement was reached in December 1996 that was designed to improve market access by foreign providers and to limit the operations of Japanese insurance subsidiaries in the third market.

- **Film.** See Table 3 above and discussion of WTO dispute settlement action involving Kodak and Fuji Photo Film.

- **Paper.** The United States has had an agreement since 1992 designed to increase access of U.S. paper products to the Japanese market. But in light of alleged problems encountered by U.S. firms in forming long-term relationships with end-users in Japan and selling directly to distributors and wholesalers, USTR declared Japan's market access for paper as a bilateral priority that might warrant a future Section 301 investigation and action.

- **Supercomputers.** The United States has had an agreement since 1987 designed to increase Japanese public sector procurement. Following limited initial success, six U.S. supercomputers were

sold to the Japanese Government in 1993 and the same number in 1994. But in 1995 and 1996, only a small number were sold, and the United States has pressed the Japanese Government to increase its purchases. On May 17, 1996, the University Corporation for Atmospheric Research (UCAR), which is a U.S. Government agency, announced its intention to buy a NEC supercomputer to undertake climate research. At the same time, the U.S. Department of Commerce informed the U.S. National Science Foundation that there was reason to believe that the NEC offer was priced unfairly and presented estimates of dumping margins of 454% on NEC supercomputers and 173% on Fujitsu supercomputer exports. On July 29, 1996, Cray Research filed an antidumping petition with the U.S. Department of Commerce and International Trade Commission alleging material injury if the NEC supercomputer were to be purchased. The ITC made a determination that there was material injury on September 11, 1996. On October 15, 1996, NEC filed a lawsuit with the U.S. Court of International Trade arguing that Commerce had violated the GATT antidumping code and the U.S.-Japan bilateral agreement by publicly endorsing Cray's dumping claim before Cray had officially filed its petition. On September 26, 1997, the ITC made a final ruling of material injury, thereby ratifying the earlier Commerce Department decision concerning dumping margins.

- **Flat Glass.** A bilateral agreement to expand access to Japan's market for imported flat glass was signed on January 25, 1995. Japan's flat glass industry is apparently dominated by three major producers who maintain exclusive distribution systems and act in concert in setting prices, maintaining capacity, and changing product mix. There has been some increase in access to Japan's flat glass market, but imports remain a very small proportion of the market.

- **Air Cargo and Passenger Services.** A 1952 bilateral agreement on transport services covers flying rights to third destinations and designation of carriers to serve each other's markets. The United States has alleged that the existing arrangements inhibited access by U.S. carriers. Bilateral negotiations were initiated in 1995 to permit Federal Express, Northwest Airlines, and United Airlines to expand their cargo services within and beyond Japan and to grant Nippon Cargo the rights to serve additional U.S. cities. Bilateral negotiations relating to passenger services were initiated in 1996 with the purpose of extending service by both U.S. and Japanese carriers in each other's market. A final agreement was reached in late January 1998.

- **Japanese Port Practices.** As bilateral consultation was stalled, on September 4, 1997, the U.S. Federal Maritime Commission imposed sanctions of $100,000 per voyage on Japanese owned or operated container vessels entering the United States in an effort to force the Japanese Government to address barriers that U.S. shipping companies encounter in servicing Japanese ports. Consultations were subsequently resumed, and the Japanese Government agreed to seek to institute changes in its port practices to make U.S. access less burdensome.

The above listing covers only a small portion of the 45 U.S.-Japanese bilateral agreements that are currently operative and that are periodically monitored and discussed. Other noteworthy bilateral agreements cover: foreign direct investment in Japan; financial services; telecommunications; medical technology; cellular telephones; satellites; computers; wood; amorphous metals; construction; medical/pharmaceutical products; legal services; apples; and rice. Information relating to these agreements is available in USTR (1997b).

It is evident from the foregoing that the United States has aggressively pursued bilateral trade objectives vis-a-vis Japan. This is not the only option of course, and it will be interesting therefore to see whether and to what extent U.S. actions relating to Japan will be directed through the WTO multilateral channels rather than bilaterally and how Japan will react if there is greater use of WTO procedures and mechanisms.

b. China

U.S. bilateral trade relations with China are subject to an agreement signed on February 1, 1980. Some of the important issues that have figured in U.S.-China trade relations in recent years are indicated below.

- **Intellectual Property Rights Protection and Enforcement.** A Memorandum of Understanding (MOU) on Intellectual Property Rights (IPR) was signed in January 1992. Because the United States considered that China had failed to meets its commitments under the MOU, China was identified on June 30, 1994 as a "priority foreign country" under the Special 301 provisions of the U.S. Trade Act of 1974. When negotiations did not produce sufficient changes, the USTR announced that trade sanctions would be imposed as of February 26, 1995. This was avoided when China agreed to take actions: to introduce immediate steps to address piracy throughout China; make long-term structural changes to ensure effective enforcement of IPR; and provide U.S. IPR holders with enhanced access to the Chinese market. Subsequently, when it appeared that commitments had not been sufficiently effectuated, China was again designated as a priority foreign country on April 30, 1996. On May 15, 1996, the United States threatened retaliatory action against imports from China, which resulted in a counter-threat by China to impose tariff sanctions on imports from the United States. Following intensive negotiations, the U.S. threat of sanctions was lifted on June 17, 1996 in response to Chinese actions designed to close down some of its CD factories and limit expansion of new factories, institute a more effective system of monitoring, verification, and enforcement to reduce illegal production and distribution of CDs.

- **MFN Status.** On July 3 of each year, the President must issue a waiver of the Jackson-Vanik Amendment involving full compliance with freedom-of-emigration requirements in order that China can continue to have MFN status for another year. Human rights conditions had been attached to MFN renewal in 1993, but these conditions were delinked in 1994. MFN has been granted to China in subsequent years on the grounds that increased trade and other economic involvement with China may be the most effective way to enhance human rights and other objectives.

- **Illegal Transshipments of Textiles and Apparel.** U.S. trade in textiles and apparel with China has been governed by a bilateral agreement since 1994. This agreement was apparently being violated by transshipment of goods through third countries and falsification of labeling or documentation of country of origin. On September 6, 1996, the United States instituted triple charges against China's 1996 quota allowance, and China countered with a threat of retaliation. Further negotiations ensued, and a new four-year agreement was signed on February 1, 1997.

- **WTO Accession Negotiation.** China has been actively seeking membership in the GATT/WTO since 1986. Discussions with China have been focused on questions of improving market access and adhering to the various disciplining rules of the WTO. China has made significant reductions in its tariffs and eliminated a variety of NTBs, but the terms of its accession to the WTO are still unresolved.

c. Taiwan

The United States has been involved in bilateral negotiations with Taiwan on a variety of issues, including protection of U.S. IPRs, improved access for U.S. exports of medical devices, liberalization of Taiwan's telecommunications and financial sector policies. Taiwan's policies for IPR protection had been cited under U.S. Special 301 provisions beginning in 1992, but these citations were removed in November 1996 in response to apparent improvements in these policies.

d. Korea

U.S. bilateral trade relations with Korea have centered on a variety of agreements and negotiations designed to improve market access in such sectors as telecommunications, financial services, imported automobiles, shelf-life standards and customs clearance for imported agricultural products, and government procurement and to provide more effective protection for IPRs. Korea's telecommunications, IPRs, and automobile policies have been cited under Section 301 provisions. Many of Korea's policies were at issue in the consideration and approval of Korea's accession to membership in the OECD, which was formally approved in October 1996.

e. European Union (EU)

The United States and EU remain continuously involved in bilateral discussions and negotiations covering the entire spectrum of issues involving international trade and investment. These contacts include: meetings pertinent to the design and implementation of the New Transatlantic Agenda with significant private sector participation; issues arising from the EU pursuit of the Single Market program and EU enlargement; harmonization of product standards; IPRs; government procurement; telecommunications market access; customs classifications of information technology products; implementation of Uru-

guay Round grain tariff commitments; the EU banana regime; ban on fur from animals caught in leghold traps; approval of market access for such biotechnology products (e.g., soybeans and corn); ban on growth promoting hormones in meat production; monitoring of the 1992 U.S..-EU Aircraft Agreement; voluntary eco-labeling; and canned fruit subsidies.

One particularly interesting dispute that occurred in July 1997 was the announcement by the European Commission (EC) that it opposed the merger between the Boeing Company and McDonnell Douglas Corporation on the grounds that this merger would be anti-competitive.[11] The EC objected in particular to three sole-supplier agreements between Boeing and major U.S. airlines that would make it difficult for the EU Airbus Industrie to compete in the U.S. market. While the EU did not have the authority to block the merger, it could take measures to exclude Boeing from the EU market and to impose fines for violation of EU merger regulations. Boeing subsequently dropped the exclusivity supplier arrangements, agreed to license certain patents to other aircraft manufacturers, and to keep McDonnell Douglas's civil aircraft operation as a single legal entity for ten years. The EC subsequently assented to the merger taking place.

5. ADMINISTRATION OF U.S. TRADE LAWS AND REGULATIONS

The United States has a number of legal statutes and provisions that authorize the use of trade-remedy measures to deal with allegedly harmful effects that the policies of trading partners may have on U.S. interests. These measures include: safeguard actions; trade adjustment assistance; antidumping (AD) and countervailing duties (CVDs); Section 301 actions; and special arrangements for agricultural products and for textiles and clothing.[12] Additional details are noted below.

[11] The discussion that follows is based on text searches of the Dow Jones Newswires and The Wall Street Journal Interactive Edition that are available on the Internet.

[12] An indication of the principal measures used between October 1, 1993 and July 31, 1996 is provided in WTO (1997b, pp. 57-58).

a. Safeguard Actions

Safeguard actions involve a procedure for granting temporary import relief to a domestic industry that may be seriously injured by increased imports. Relief may be granted initially for up to four years and extended to a maximum of eight years, and it may take the form of increased tariffs, quantitative restrictions, or other measures. To qualify for relief, the USITC must find that imports are a substantial cause of serious injury to the petitioning industry.

The USITC conducted two global and one bilateral safeguard investigations in 1996. The global investigations involved imports of broom corn brooms and fresh tomatoes and bell peppers, and the bilateral investigation involved imports of broom corn brooms from Mexico. Affirmative injury determinations were made by the USITC in the two broom corn brooms cases and a negative determination for fresh tomatoes and bell papers. The President imposed higher tariffs for a three-year period on broom corn brooms in November 1996.

b. Trade Adjustment Assistance (TAA)

Worker assistance provided under the TAA program includes cash allowances, training, job search and relocation allowances, and reemployment services for workers adversely affected by increased imports. The eligibility criteria for TAA are determined by the Secretary of Labor, and the TAA program is administered through the Employment and Training Administration of the Department of Labor. Worker training was made an entitlement in the 1988 Trade Act. A special provision was added to the Trade Act in 1993 to provide transitional assistance to workers displaced in trade with NAFTA countries. Information for the fiscal year ending September 30, 1996 on TAA certifications and petitions and the types of benefits utilized for the 1996 fiscal year is given in Table 7. Similar information for NAFTA-related assistance is provided in Table 8. Assistance is also provided to firms and industries through the Trade Adjustment Assistance Division (TAAD) of the U.S. Department of Commerce's Economic Development Administration. The TAAD is administered through a network of 12 Trade Adjust-

ment Assistance Centers. In fiscal 1996, 148 firms were found eligible to apply for assistance, as compared to 137 certified in fiscal 1995.

c. Antidumping (AD) Investigations

The U.S. AD law permits special additional duties to be imposed to offset margins of dumping. This may occur in response to a petition filed on or on behalf of a U.S. industry, when the U.S. Department of Commerce's International Trade Administration (ITA) determines that imports are being or likely to be sold at less than fair value (LTFV) in the U.S. market and the USITC has determined that there has been or there is a threat of material injury because of such imports. The AD duty is calculated as the difference between the U.S. price and the foreign market value, usually the home-market price, the price in a third country, or a constructed value. Table 9 contains information on the number of AD petitions filed and the status of determinations during 1994-96.[13] It is evident that there has been a significant decline in the number of petitions filed and the affirmative determinations during the three years covered. While it is not altogether clear why the decline has occurred, it may reflect the favorable macroeconomic conditions in the U.S. economy which work to reduce claims by U.S. firms that imports may be priced unfairly.

d. Countervailing Duty (CVD) Investigations

The U.S. CVD law provides for imposition of special additional duties to offset foreign subsidies on goods imported into the United States. The procedures for investigation are similar to those used to administer the AD law. Table 10 contains information on the number of CVD petitions filed and the status of determinations for 1994-96.[14] As in the case of AD actions, it is evident that a comparatively small number of CVD actions were taken in recent years.

[13] Details on AD cases active in 1996 and AD orders and findings in effect as of December 31, 1996 can be found in USITC (1997, pp. 193-201).

[14] See USITC (1997, pp. 202-04) for details on CVD cases active in 1996 and CVD orders and findings in effect as of December 31, 1996.

As noted in WTO (1997b, p. 60), in an effort to limit the nuisance value of investigations, the Uruguay Round Agreements Act specifies *de minimis* thresholds for calculating dumping margins and countervailable subsidies. The Act also clarifies the factors that should be taken into account in determining whether changes in the establishment of assembly processes have been designed to circumvent the AD and CVD laws. Finally, and perhaps of significant importance in the future, the Act requires that AD and CVD orders must be reviewed automatically five years after they have been issued and steps taken to terminate the orders if the conditions justifying their introduction no longer are applicable. The reviews are scheduled to begin in the United States in 1998, but no revocations can occur before January 1, 2000.

e. Section 337 Unfair Practices Investigations

Section 337 of the Tariff Act of 1930 authorizes the USITC to carry out investigations regarding certain practices in import trade, especially in cases where there may be infringement of a registered U.S. patent, trademark, or copyright. These investigations are carried out before an USITC administrative law judge. Violations can require that the imported goods involved not be sold or distributed in the United States, although in practice it is common for the parties to reach settlement agreements. In 1996, the USITC initiated 13 Section 337 investigations and 1 formal enforcement proceeding. Details on the investigations completed during 1996 and pending on December 31, 1996 and exclusion orders outstanding as of December 31, 1996 can be found in USITC (1997, pp. 205-09).

f. Section 301 and Related Measures

Section 301 of the Trade Act of 1974 is the principal U.S. statute for addressing foreign unfair practices that may affect U.S. exports of goods or services. A procedure is provided whereby interested parties may petition the USTR to investigate a foreign government policy or practice and take action. USTR may also self initiate an investigation. The USTR is required to seek consultations with the foreign government involved, and, if no settlement is reached and the investigation involves a trade agreement, a WTO dispute settlement procedure must be invoked. Once the investigation is concluded and if

no settlement is reached, the USTR will decide if any actions are to be taken to rectify damage being done to U.S. interests.

"Super 301" provisions were introduced in the Omnibus Trade and Competitiveness Act of 1988 and, after allowing them to lapse subsequently, they were reinstated on March 3, 1994. The USTR is required to submit a report to Congress on U.S. trade expansion priorities and to identify "priority foreign country practices" whose elimination would benefit U.S. exports. "Special 301" provides for investigation against "priority foreign countries" who may infringe on U.S. intellectual property rights (IPRs). In its annual *National Trade Estimates Report*, the USTR includes the following Special 301 categories: Priority Foreign Country list; Priority Watch List; Watch List; and Special Mention.[15]

An indication of Section 301 investigations active between October 1993 and July 1996 is provided in WTO (1997b, pp. 75-76). More recently, the following actions have been taken, according to the Super 301 annual review as of September 30, 1997:

- **Priority Foreign Country Practice. Korea - barriers to auto imports**. Since Korea was judged to be unprepared to undertake the reforms necessary for a genuine opening of its market for imported automobiles, a Section 301 investigation will be initiated.

- **Japan - Market Access Barriers to Fruit.** A Section 301 investigation will be initiated and a WTO panel requested to challenge the Japanese Government requirement of separate efficacy testing of certain quarantine treatments for each variety of imported fruit.

- **Canada - Export Subsidies and Import Quotas on Dairy Products.** WTO dispute settlement procedures will be invoked in conjunction with a Section 301 investigation of Canada's subsidies on exports of dairy products and import quotas on milk.

- **EU - Circumvention of Export Subsidy Commitments on Dairy Products.** WTO dispute settlement procedures will be invoked in conjunction with a Section 301 investigation of EU subsidies of exports of processed cheese.

- **Australia - Export Subsidies on Automotive Leather.** WTO dispute settlement procedures will be invoked over concern that Australia's package of assistance to its automobile is not consistent with WTO subsidies rules.

[15] For some recent results of Special 301 "out of cycle" reviews, see USTR Press Releases 97-93 (October 27, 1997) and 98-03 (January 15, 1998). These are available on the USTR Home Page at WWW.USTR.GOV.

g. Telecommunications

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires the USTR to undertake annual reviews of the operation and effectiveness of U.S. telecommunications trade agreements. The 1996 review, completed on March 31, 1996, focused on implementation of agreements with Korea and Japan. No violations were found with respect to Japan. Intensive negotiations were conducted with Korea regarding improvement of government procurement procedures and other aspects of market access. Korea was identified as a "priority foreign country" under Section 1374 of the Trade Act on July 26, 1996, but thus far no resolution of the issues has been achieved. Mexico was cited for not fulfilling certain elements of its NAFTA telecommunications obligations with regard especially to acceptance of test data related to product safety of telecommunications equipment and standards for network terminal attachment equipment. Discussions on these issues are ongoing.

h. Government Procurement

Title VII of the 1988 Omnibus Trade and Competitiveness Act requires the USTR to report annually on countries that are in violation of their obligations under the WTO Government Procurement Agreement (GPA) as well as non-signatory countries that are judged not to apply transparent and competitive procurement procedures and that may show evidence of corruption and bribery in procurement practices. No countries were identified in 1995. Germany was cited for a persistent pattern of discrimination in the heavy electrical equipment sector in 1996, and it subsequently agreed to pursue legislation to help correct the problems involved. Since May 1993, the United States has excluded most EU suppliers from U.S. federal procurement for telecommunications, and, in return, the EU has rejected procurement bids below certain thresholds.

i. Agreement on Textiles and Clothing

The Agreement on Textiles and Clothing (ATC) was negotiated during the Uruguay Round in connection with the phasing out of the Multifiber Arrangement (MFA) of quotas over a 10-year period. The ATC permits the use of "transitional safeguards" to impose quotas on products not previously sub-

ject to quotas and not yet phased out from the MFA. In 1995, there were 28 calls for quotas which involved requests for consultations with foreign suppliers to establish the quotas. Fifteen of these calls were later rescinded as not being warranted due to improved market conditions. In 1996, there were two calls for quotas. Two of the 1995 calls were challenged in 1996 by Costa Rica and India to be reviewed by the Textile Monitoring Board established in the WTO to supervise implementation of the ATC. In both cases, WTO dispute settlement panels ruled that serious injury could not be demonstrated and that the U.S. import quotas should be removed. The United States also has quota arrangements with non-WTO members, especially China where, as noted, there have been continuing disputes over transshipments through Hong Kong in particular.

j. Generalized System of Preferences (GSP) and Caribbean Basic Initiative (CBI) Programs

Under the GSP and CBI programs, the benefits to developing countries can be withdrawn to encourage the elimination or reduction of barriers to trade in goods, services, and investment, to enhance worker rights, and to improve IPR protection. In recent years, actions have been taken against Argentina, Pakistan, Thailand, Maldives, Dominican Republic, Guatemala, El Salvador, Honduras, Philippines, Belarus, Switzerland, Panama, Paraguay, Turkey, and Indonesia.

6. U.S. AGRICULTURAL TRADE POLICIES

Under the WTO Agreement on Agriculture, all U.S. quantitative import restrictions have been converted to their tariff equivalents, and tariffs, export subsidies, and domestic agricultural support measures have been bound. Furthermore, under the Federal Agricultural Improvement and Reform (FAIR) Act of 1996, most direct production support is converted into direct income support that will decline over seven years. These income support expenditures have been set below previous direct government payments. The FAIR Act also allocates funds for export subsidies under the Export Enhancement Program and for export credit guarantees. Non-price support is provided by the Foreign Market Development Program, the Targeted Export Assistance Program, and the Market Promotion Program.

Under the Special Safeguard provisions of the WTO agreement on Agriculture, the United States has reserved the right to apply increased tariffs on an automatic basis when import prices are below the average prices for 1986-88 for imports under tariff quotas. Twenty-four such actions were taken in 1995. Agricultural imports are also eligible for trade protection, and some producers receive preferences under public procurement. Since 1994, there have been two AD investigations covering garlic imports from China and canned pineapple from Thailand. As of December 31, 1995, there were 17 AD and ten CVD measures on agricultural products still in force. In addition, under Section 201-204 of the Trade Act of 1974, AD investigations were carried out by USITC. As noted above, imports of tomatoes from Mexico were made subject in 1996 to a five-year suspension arrangement that specified a set minimum reference price. Also, as already discussed, there have been numerous actions taken in the WTO involving U.S. agricultural exports, including Korean sanitary and phytosanitary (SPS) measures involving shelf-life requirements for imported food, EU barriers on imports of hormone-treated beef and import licensing of bananas, and Japan's SPS restrictions on imported apples.

7. CONCLUSIONS AND IMPLICATIONS

An effort has been made in this paper to present the highlights of U.S. trade policies and related activities since the advent of the WTO at the beginning of 1995. It should be evident that U.S. trade policies cover a broad spectrum of activities, including multilateral, regional, bilateral, and trade-remedy measures, and that there are diverse interests at work in influencing the direction and content of these policies. Some of the important conclusions suggested by our overview are as follows:

1. The conclusion of the Uruguay Round of multilateral trade negotiations and creation of the WTO mark a major turning point in the institutional structure governing international trade relations. It is quite remarkable that a number of potentially far reaching agreements were concluded in the Uruguay Round, and WTO member countries have been actively engaged in implementing these agreements and concluding new agreements covering trade in such sectors as telecommunication products and services and financial services.

2. There is ample evidence that the United States and many other WTO member countries, both industrialized and developing, have made very substantial use of the newly strengthened dispute settlement mechanism in the past three years. If this continues, it can only serve to enhance the role of the WTO in overseeing the functioning and effectiveness of the multilateral trading system.

3. The NAFTA is the primary regional trading arrangement in which the United States is currently involved. While negotiated reductions in tariffs and other trade barriers are being phased in, a number of frictions have marked U.S. trade relations with Canada and Mexico. In some cases, the resolution of these frictions has involved reduction or removal of trade impediments, but there have been some noteworthy examples of cases in which protectionist measures have been imposed, prime examples being the restraint arrangements limiting U.S. imports of Canadian softwood lumber and Mexican tomatoes.

4. The United States is currently deeply involved in discussions and meetings designed to promote regional arrangements by means of a FTAA and through APEC. Such new arrangements are on the agenda for the new millenium, but it remains to be seen if and how they may come to fruition and how they will fit into the WTO multilateral system.

5. A great deal of U.S. trade activities involve bilateral relations with major trading partners. Some of these activities are coordinated with the WTO, but there are others in which the United States bypasses the WTO and acts more directly with its national interests foremost in mind. When the United States pursues bilateral consultations and negotiations, the objectives are often to seek improved market access for U.S. exporters. To the extent that this results in a lowering of sectoral trade barriers, both U.S. and other exporters would benefit. But there may be instances in which the United States exerts bilateral pressures to limit imports, as in the case of textiles and clothing quotas, or is representing the interests of particular U.S. firms. In an ideal world, the United States would look to the WTO to represent its national interests in the multilateral trading system. But so long as large countries can use their political muscle to achieve national objectives, bilateral pressures will continue to be important.

6. The United States has available a variety of trade-remedy measures that are designed to deal with upsurges in imports and especially alleged unfair trading practices of foreign firms and governments. The United States has for some time made comparatively little use of safeguard measures and has relied much more on AD and CVD measures to deal with alleged unfair trade. What is noteworthy is that there has been a significant decline in both AD and CVD actions in recent years. This may reflect the very favorable macroeconomic conditions that have continued to exist in the United States, thus lowering the probability of a finding of serious injury in cases in which an AD or CVD petition were to be filed. With the onset and continuance of the Asian currency crises since the summer of 1997, the currencies of several Asian countries have depreciated markedly. As a consequence, U. S. imports from these countries have increased considerably in the fall of 1997 and into 1998. To the extent that these imports may displace expenditures on U.S. produced goods and in view of the decline in U.S. exports that will occur as Asian economic growth slackens, it is quite possible that we will witness increasing resort to AD and CVD actions on the part of U.S. firms. But a possible offsetting element here could be that such measures are now subject to stricter oversight and time limits as the result of the Uruguay Round agreements.

7. The use of Section 301 and other unilateral measures such as the Helms-Burton Act and Iran-Libya Sanctions Act continues to be a serious irritant in U.S. relations with its major trading partners. It is conceivable that such unilateral measures may become less common or have a lesser harassment effect to the extent that they are made subject to WTO dispute settlement procedures. But this will depend on the political forces that govern U.S. foreign policy.

In the Introduction to the paper, it was noted that U.S. trade policies are influenced by a variety of constituent interest groups. An important subject for future research would thus be to focus explicitly on how these different groups bring their influence to bear on the making of U.S. trade policies and how the Executive Branch and Congress respond to the pressures being exerted. Further, looking back at the past three years of U.S. trade policy activities since the creation of the WTO, we would like to know how to interpret whether and the extent to which these activities have worked on balance in a liberalizing or

protectionist direction. One way to approach this would be to use a partial equilibrium framework to consider the individual activities and sum them up. Another and probably more fruitful way would be to incorporate measures of the various policy activities into a general equilibrium framework, using a computable general equilibrium (CGE) trade model for this purpose.

A consideration of central importance to future U.S. trade policies is how the Executive Branch proposes to deal with the extension of fast-track negotiating authority in 1998 and beyond. There is still ample scope for pursuing trade-policy objectives even without fast track so long as any agreements reached do not require the U.S. Congress to prepare implementing legislation. Nonetheless, the Administration's ability to engage in multilateral liberalization negotiations will be seriously hampered if it is possible for Congress to amend agreements that may be reached. This will be the case as well for regional initiatives such as the expansion of NAFTA, creation of a FTAA, and APEC liberalization.

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TABLE 1

Summary Agenda and Results of the December 1996
Singapore Ministerial Conference

Uruguay Round implementation

- Numerous reporting requirements for far-reaching and technically complex disciplines have made it difficult for many countries to comply both administratively as well as substantively with the up to 22 agreements that comprise the Uruguay Round Agreements (URA). The ministers' foremost priority at Singapore was to review the considerable backlog of notifications and consider what improvements could be made to help existing URA mechanisms work better to ensure full compliance with current obligations.

Built in **agenda**

- Services negotiations continued after the Dec. 1993 Uruguay Round conclusion in the areas of financial services, movement of natural persons, basic telecommunications, and maritime transport, and were scheduled to conclude respectively by June 1995, June 1995, April 1996, and June 1996. These sectoral negotiations have been extended for the most part due to inadequate concessions in the never-before-negotiated area of services. Ministers hoped that the SMC would reinvigorate these talks, especially those on basic telecommunications rescheduled to conclude in February 1997.

- In addition, the current URA contain provisions that already call for either new negotiations at specified future dates (agriculture, services by 2000) or for periodic reviews at various times of virtually every major agreement (e.g. textiles, subsidies, antitdumping, intellectual property, dispute settlement, the U.S. "Jones" Act) that set in motion implementation discussions that in effect amount to much the same thing.

- The Committee on Trade and Environment, established by the April 1994 Marrakesh Ministerial Conference, presented its initial findings to the SMC.

Tariff initiatives

- Australia and Canada proposed that the SMC act as catalyst to liberalize market access over and above that in the existing URA and "built-in" agenda negotiations, both calling formally for new tariff cuts on industrial products to be put on the WTO agenda.

- The EU and the United States advanced sectoral tariff elimination in pharmaceuticals and information technology—the latter leading to the Information Technology Agreement (ITA) presently set to enter into force on July 1, 1997 for completion by 2000.

Least developed countries

- Least developed countries (LLDCs) have not integrated themselves into the world economy over the past decade to the degree that developing countries have. Studies by the World Bank and others have concluded that some reforms in the URA could result in a worsening of the terms of trade for LLDCS. The WTO Director-General and several key developed country participants urged that the SMC highlight the plight of such countries and adopt measures to address this problem.

New issues

- Proposals for launching additional WTO work on "new" issues were put forward by various participants, with intense discussions of possible new issues for WTO consideration held before the SMC. Mentions of labor standards, regionalism, competition policy, investment, and government procurement reached the final declaration, whereas other issues were also discussed such as a review of WTO rules in light of the spread of regional trading blocs and the increased "globalization" of the world economy.

Source: USITC (1997, p. 16).

TABLE 2
WTO Disputes: Consultation Requests
January 1, 1995 to January 16, 1998

Complaints by	Respondents					
	United States	Japan	European Community[a]	Other Ind. Countries	Developing Countries	Total[b]
United States	-	5	13	5	18	41
Japan	1	-	-	-	3	4
European Communities	7	5	-	1	13	26
Other Industrialized Countries	-	1	4	2	8	15
Developing Countries	15	-	10	2	12	39
Total[b]	23	11	27	10	54	125

[a]Includes complaints against the European Communities (EC) as well as individual EC member countries.
[b]Totals reflect individual cases involving more than one country requesting consultation with respondent.

Source: World Trade Organization, "Overview of the State-of-play of Disputes," http://www.wto.org./wto/dispute/bulletin.htm, January 16, 1998.

TABLE 3
U.S. Dispute Settlement Complaints Invoked in the WTO,
Year Ending October 1, 1977

During the past year, USTR has invoked WTO dispute settlement procedures to challenge a wide variety of foreign government practices, covered by the *broad range* of agreements administered by the WTO, seeking to enforce the rules on tariffs, agriculture, services, intellectual property rights, antidumping measures, and sanitary and phytosanitary measures. Those complaints include challenges of:

- **Argentina's** import duties on footwear, textiles, and apparel that exceed the maximum to which Argentina is committed under WTO tariff rules;
- licensing requirements in **Belgium** that discriminate against U.S. suppliers of commercial telephone directory services;
- **Brazilian** government measures that give certain benefits to manufacturers of motor vehicles and parts, conditioned on compliance with average domestic content requirements, trade-balancing and local content requirements with regard to inputs;
- the failure of **Denmark** to provide adequate measures to enforce intellectual property rights;
- reclassification by the **European Union**, the **United Kingdom**, and **Ireland** of certain computers and computer-related equipment to different tariff categories with higher tariff rates;
- important restrictions on more than 2700 agricultural, textile and industrial products imposed by **India** for which India can no longer claim a justification for balance-of-payments reasons;
- **Indonesia's** programs granting preferential tax and tariff benefits to producers of automobiles based on the percentage of local (Indonesian) content of the finished automobile;
- **Ireland's** failure to expeditiously bring its copyright laws into compliance with the WTO agreement on intellectual property rights;
- **Japan's** barriers to market access for photographic film and paper, and barriers to distribution and retail services in Japan;
- **Korea's** taxes on Western-style distilled spirits that are higher than those assessed on the traditional Korean-style spirit *soju*;
- an antidumping action by **Mexico** of high-fructose corn syrup imports from the United States that does not conform to WTO procedures;
- a licensing system in the **Philippines** that discriminates against U.S. exports of pork and poultry; and
- the failure of **Sweden** to provide adequate measures to enforce intellectual property rights.

Source: USTR (1997a, p. 4).

TABLE 4
WTO Dispute Settlement Panel Decisions Favorable to the United States,
January 1995 to October 1997

- **Japan – liquor taxes.** The United States – joined by the EU and Canada – successfully challenged a discriminatory Japanese tax scheme that placed high taxes on whisky, vodka, and other Western-style spirits, while applying low taxes to a traditional Japanese spirit (shochu). This was an important victory for the U.S. distilled spirits industry, whose exports to Japan have reached $100 million per year even in spite of the heavy Japanese taxes. Japan has already enacted legislation that is a major step toward eliminating the problem. The excise taxes on whisky and other brown spirits are being dramatically reduced, starting in October 1997, and the excise tax on shochu will be increased. The results will be a drastic tax cut for U.S. brown spirits exports.

- **Canada – restrictions on magazines.** The United States successfully challenged a recently enacted Canadian law that placed a high tax on American magazines containing advertisements directed at a Canadian audience. This tax, which was the latest in a series of Canadian government measures designed to protect the Canadian magazine industry from U.S. competition, was specifically calculated to put the Canadian edition of *Sports Illustrated*, published by the Canadian subsidiary of Time Warner, Inc., out of business. By ruling in favor of the United States, this case makes clear that WTO rules prevent governments from using 'culture' as a pretense for discriminating against imports.

- **EU – banana imports.** The United States joined Ecuador, Guatemala, Honduras, and Mexico in challenging an EU import program that gave French and British companies a big share of the banana distribution services business in Europe that U.S. companies had built up over the years. Ruling against the EU, the WTO panel and Appellate Body found that the EU banana import rules violated both the General Agreement on Trade in Services and the General Agreement on Trade in Goods by depriving U.S. banana distribution services companies and Latin American banana producers of a fair share of the EU market.

- **EU – hormone ban.** Both the United States and Canada challenged Europe's ban on the use of six hormones to promote the growth of cattle, and a WTO panel agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. The panel affirmed the need for food safety measures to be based on science, as they are in the United States. In addition to potentially affecting over $100 million in U.S. beef exports annually, this ruling sets an important precedent that will act to protect other U.S. exporters from unscientific and unjustified trade barriers in the future. The panel ruling was upheld by the WTO Appellate Body on January 15, 1998.

- **India – patent law.** The United States obtained a panel ruling against India on September 5, 1997 for failing to provide procedures for filing patent applications for pharmaceuticals and agricultural chemicals, as required by the WTO agreement on intellectual property protection. Besides serving notice that the United States expects all WTO members, including developing countries, to carry out their WTO obligations concerning intellectual property rights, this case also demonstrates that the WTO dispute settlement mechanism can play an important role in protecting American rights and interests in this field. The panel decision was upheld by the WTO Appellate Body in December 1997.

- **Argentina -- specific duties and taxes on imports.** A WTO panel found that Argentina's specific duties on textiles and apparel to be excessive and in violation of WTO rules, and that Argentina's 3 percent tax on most imports to violate GATT Article VIII. The specific duties were judged to exceed the ad valorem bound rates on certain products.

Source: USTR (1997a, p. 16).

TABLE 5
U.S. Dispute Settlement Consultations Favorable to the United States
Without Creation of a Panel, January 1995 to October 1997

- **Korea – shelf-life requirements.** Consultations under WTO procedures resulted in a commitment by Korea to phase out its shelf-life restrictions on food products – which removed a major barrier to U.S. exports of beef, pork, poultry, and frozen products.

- **EU – grains imports.** By demonstrating resolve to refer the matter to a panel, the United States succeeded in pushing the EU to implement a settlement agreement on grains that benefits U.S. exports of rice and malting barley.

- **Japan – sound recordings.** In only a matter of months after holding WTO consultations, the Government of Japan amended its law to provide U.S. sound recordings with retroactive protection, as required by the WTO agreement on intellectual property rights.

- **Portugal – patent law.** After the United States requested WTO consultations, Portugal agreed to revise its patent law to provide a 20-year term to old, as well as new, patents, as required by the WTO agreement on intellectual property rights.

- **Pakistan – patent law.** After the United States requested the establishment of a WTO panel to enforce the WTO intellectual property rights agreement, Pakistan implemented the requirements of that agreement to provide procedures for filing patent applications and preserving exclusive marketing rights to protect pharmaceuticals and agricultural chemicals.

- **Turkey – film tax.** The United States used the WTO dispute settlement process to convince the Government of Turkey to eliminate discriminatory tax treatment currently given to box office receipts from exhibition of foreign films. Turkey has agreed to change its practice.

- **Hungary – agricultural export subsidies.** The United States, joined by Argentina, Australia, Canada, New Zealand, Thailand, and Japan, used the WTO dispute settlement procedures to address Hungary's lack of compliance with its commitments on agricultural export subsidies. The result was a settlement agreement in which Hungary will have to cut its current export subsidy levels by more than 65%.

- **Australia - import credit scheme.** The United States filed a complaint concerning Australian subsidies on leather products. The case was settled in November 1996.

Source: USTR (1997a, p. 17).

TABLE 6
WTO Dispute Actions Taken Against the United States, January 1, 1995 to October 20, 1997

1. Appellate Reports Adopted

Venezuela/Brazil - standards for reformulated and conventional gasoline. A single panel considered the complaints of both Venezuela and Brazil concerning the regulation of imports of gasoline by the U.S. Environmental Protection Agency. The panel found the regulation inconsistent with the national treatment provision of the WTO, and also that it could not be justified on environmental grounds.

Costa Rica - restrictions on imports of cotton and man-made fibre underwear. U.S. restrictions on textile imports were found to be in violation of the Agreement on Textiles and Clothing (ATC).

India - measure affecting imports of woven wool shirts and blouses. A transitional safeguard measure imposed by the United States was found to be inconsistent with the ATC.

2. Active Panels

European Communities - The Cuban Liberty and Democratic Solidarity (Libertad - Helms-Burton) Act of 1996. The EC claims that U.S. trade restrictions on goods of Cuban origin as well as the possible refusal of visas and the exclusion of non-U.S. nationals from U.S. territory are inconsistent with the U.S. obligations under the WTO Agreement. The U.S. position is that the Libertad Act is justified on national security grounds. A temporary settlement was reached under which the United States and EU agreed to work together to develop binding disciplines on dealings in confiscated properties in Cuba, but the EU continues to reserve the right to reinstate the panel should a mutually satisfactory agreement not be concluded bilaterally.

India, Malaysia, Pakistan, and Thailand - Import prohibition of certain shrimp and shrimp products. This is a joint complaint against the U.S. policies designed to protect and conserve sea turtles that may be inadvertently captured during shrimp harvests using commercial trawl vessels.

Korea - Anti-dumping duty on semiconductors. This is a complaint that the United States has continued these duties despite the lack of evidence that Korean dumping has been discontinued.

3. Pending Consultations

Philippines - Import prohibition of certain shrimp and shrimp products. See above.

European Communities - Anti-dumping measures on imports of solid urea from the former German Democratic Republic. The EU claims that the U.S. anti-dumping imposed are in violation of the WTO Anti-Dumping Agreement.

Colombia - Safeguard measure against imports of broom corn brooms. The U.S. action is alleged to be in violation of the WTO Agreement on Safeguards.

European Communities - Measures affecting textiles and apparel products. Changes in U.S. rules of origin for textiles and apparel are alleged to be in violation of the ATC and the GATT/WTO Agreement.

European Communities - Measure affecting government procurement. This contests a June 20, 1997 act by the Commonwealth of Massachusetts prohibiting public authorities from procuring goods or services from any persons who do business with Myanmar (Burma) as violating the WTO Government Procurement Agreement.

Korea - Anti-dumping duties on imports of color television receivers. It is contended that the United States has maintained an anti-dumping order for the past twelve years for Samsung color TVs despite the absence of dumping and cessation of exports from Korea.

Chile - Countervailing duty investigation of imports of salmon. It is contended that the decision to initiate an investigation was undertaken in the absence of sufficient evidence of injury in violation of the WTO Agreement. In January 1998, the U.S. Commerce Department assessed preliminary anti-dumping duties of 5 percent rather than the 42 percent asked by the eight U.S. plaintiff firms.

Korea - Anti-dumping duty of dynamic random access memory semiconductors (DRAMS) of one megabyte or above. This is a protest against a U.S. Department of Commerce decision not to revoke the anti-dumping duty on DRAMS imported from Korea even though it was concluded that Korean producers have not dumped their products for more than 3 ½ years and despite evidence demonstrating that there will be no future dumping.

European Communities - Measures affecting imports of poultry products. It is contended the ban allegedly on grounds of product safety does not indicate the grounds applicable to EC poultry products.

European Communities - Tax treatment for foreign sales corporations. It is claimed that the United States is in violation of Articles IV.4 and XVI of GATT 1994 and Articles 3.1(a,b) of the Subsidies Agreement.

Argentina - Tariff rate quota on imported groundnuts. This is a complaint about the restrictive interpretation by the United States of the tariff rate quota negotiated in the Uruguay Round.

4. Settled Cases or Inactive Panels

Japan - Imposition of import duties on automobiles from Japan. Japan had alleged that U.S. import charges violated GATT Articles.

India - Measures affecting imports of women's and girls' wool coats. A transitional safeguard measure instituted by the United States was in violation of the ATC and was removed.

European Communities - Tariff increases on products from the European Communities. It was contended that U.S. tariffs imposed in retaliation for the EC "hormones" directive were in violation of GATT/WTO Articles. The United States subsequently withdrew the tariff increases.

Mexico - Anti-dumping investigation regarding imports of fresh or chilled tomatoes. It was contended that this investigation was in violation of the GATT Anti-dumping Agreement. The case was settled by a 5-year suspension agreement on October 28, 1996 providing that no anti-dumping duties will be assessed so long as tomatoes imported from Mexico are sold in the United States at, or above, an established reference price..

Source: WTO, "Overview of the State-of-play of WTO Disputes," January 16, 1998.

TABLE 7
TAA Investigations Completed or Terminated in
Fiscal Year 1996 (October 1, 1995 to September 30, 1996)

Item[a]	Number of investigations or petitions	Estimated number of workers
Completed certifications	1,086	115,561
Partial certifications	3	465
Petitions denied	423	60,102
Petitions terminated or withdrawn	76	3,575
Total	1,588	179,703

Utilization of TAA Service Benefits
Fiscal Year 1996 (October 1, 1995 to September 30, 1996)

Item	Estimated number of participants in FY 1996
Training	32,000
Job search	650
Relocation allowances	760
Total[b]	33,410

[a]Includes investigations in process for fiscal 1995.
[b]Total expenditures were $97.8 million.
Source: USITC (1997, p. 130).

TABLE 8
NAFTA-Related Assistance to Workers
Fiscal Year 1996 (October 1, 1995 to September 30, 1996)

Item	Number of investigations or petitions
Petitions filed	714
Worker groups certified	399
Petitions denied	251
Petitions terminated	19

Item	Estimated number of participants	Cost (dollars)
Training	2,300	$5,957,129
Job search	76	3,444
Relocations	76	72,939
Total	2,388	$6,033,522

Source: USITC (1997, pp. 130-31).

TABLE 9
U.S. Antidumping Petitions Filed and Determinations, 1994-96

Antidumping duty investigations	1994	1995	1996
Petitions filed	43	14	20
Preliminary Commission determinations:			
Negative	3	1	0
Affirmative (includes partial affirmatives	46	13	17
Final Commerce determinations:			
Negative	2	2	0
Affirmative	33	40	12
Terminated	0	0	0
Suspended	2	1	1
Final Commission determinations:			
Negative	10	16	3
Affirmative (includes partial affirmatives)	17	24	8
Terminated	2	3	1

Source: USITC (1997, p. 140).

TABLE 10
U.S. Countervailing Duty Petitions Filed
and Determinations, 1994-96

Antidumping duty investigations	1994	1995	1996
Petitions filed	7	2	1
Preliminary Commission determinations:			
Negative	13	0	0
Affirmative (includes partial affirmatives	6	2	1
Final Commerce determinations:			
Negative	0	0	0
Affirmative	1	5	2
Suspended	0	0	0
Final Commission determinations:			
Negative	0	2	0
Affirmative (includes partial affirmatives)	1	3	2
Terminated	0	0	0

Source: USITC (1997, p. 140).