S. HRG. 103-989

OVERVIEW OF THE RESULTS OF THE URUGUAY ROUND

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

JUNE 16, 1994

Printed for the use of the Committee on Commerce, Science, and Transportation

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WITNESS

OVERVIEW OF THE RESULTS OF THE URUGUAY ROUND

THURSDAY, June 16, 1994

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m. in room SR–253, Russell Senate Office Building, Hon. Ernest F. Hollings (chairman of the committee) presiding.

Staff members assigned to this hearing: Ivan A. Schlager, senior counsel, and Troy H. Cribb, professional staff member; and Kevin M. Dempsey, minority staff counsel.

OPENING STATEMENT OF SENATOR HOLLINGS

The CHAIRMAN. The committee will please come to order.

In the interest of time, I always try to forgo these statements—and I will put a prepared statement in the record.

[The prepared statement of Senator Hollings follows:]

PREPARED STATEMENT OF SENATOR HOLLINGS

Good Morning. Today the Commerce Committee examines the end product of over 7 years of trade negotiations, the Final Act of the Uruguay Round of the General Agreement on Tariffs and Trade.

For several years now, one word has resonated throughout the country, and that word is "change." If there is one area of public policy that is desperately crying out for change, it is trade policy. During the 1980's our slavish devotion to the verities of an outmoded 18th century free trade philosophy decimated key U.S. manufacturing industries, leaving a bitter legacy of shuttered factories across America.

Regrettably, the GATT agreement doesn't represent change; instead, its negotiating objectives reflect a vision of an America with a declining manufacturing base, an America that is a powerhouse in arranging financial transactions, in filing patents and trading grains, but not an America that is a manufacturing superpower.

The Uruguay Round makes explicit tradeoffs. Textile and apparel jobs are traded to achieve market access for financial institutions and to protect intellectual property rights of pharmaceutical conglomerates. Wild claims are being thrown around projecting trillion dollar expansions in GDP. These claims are based on unrealistic assumptions. But this is nothing new. I heard this 15 years ago after the completion of the Tokyo Round: trade was supposed to expand exponentially, and manufacturing was supposed to experience an economic renaissance. Instead, we posted unprecedented trade deficits of over $1 trillion and watched real income decline by 18 percent.

The problems faced by our economy in the global marketplace will not be resolved by obtaining the "right" set of rules or by establishing adequate dispute settlement mechanisms. Instead, they will only be redressed when our government facilitates the development of competitive U.S. industries. The Clinton administration's proposals to adopt a technology policy and to build a competitive environment for a new information age are courageous departures from the failed policies of the past. What is now required is the courage to forge new trade policies that address a postcold war world marketplace where America faces fierce competition not just from the

economic powerhouses of Europe and Japan but from the burgeoning sweatshops in the developing world.

The system that was spawned at Bretton Woods, NH, has, since 1971, been crumbling. It has been under persistent attack from emerging economic powerhouses who have abandoned the Anglo-American theory of development and have forged a potent business-government juggernaut that has captured export markets throughout the world.

The new World Trade Organization, subjecting our domestic law to an international tribunal, is destined to join other feckless international organizations such as the United Nations. The simple fact is that the rest of the world does not share our fervent belief that the theory of unfettered free trade is a product of divine inspiration. For the WTO to be successful, there must be a consensus on acceptable rules in international trade. Unfortunately, the only consensus throughout the world is that the WTO will end assertive U.S. unilateralism as embodied by section 301 and Super 301.

Recently, a senior State Department official lamented the fact that America is now viewed throughout Asia as the world's hectoring trade nanny. The recent attempt by U.S. negotiators to establish a new "Framework Agreement" with Japan is further evidence of the U.S. isolation in the world trade community. The U.S. policy was widely criticized throughout Europe and Asia. The WTO will merely become a forum for U.S. trade partners to attack what they perceive to be our hypocrisy on matters of international trade.

What we need is a new approach to trade policy, one that addresses the instability that was created by the collapse of the Bretton Woods system. Rather than letting 20-year-old currency traders dictate the conditions of international trade, central banks must provide monetary stability. Instead of retreating from our position of leadership and ceding our sovereignty to a group of international bureaucrats, we must adopt a policy of aggressive unilateralism in order to achieve reciprocal trade concessions. We must offer hope for those millions of Americans who are gripped by economic insecurity, and we must offer hope for those Americans who are forced to take part-time work, or who seem to be working harder just to stay in place. It is for these Americans that we must change our outdated trade policies.

The CHAIRMAN. Otherwise, you are very, very welcome, Ambassador Kantor. Here is the concern that this particular Senator and many on the committee have. Could it be that this gap could be the nail in the coffin? Now, what would the coffin be? We only have to refer to an article by this brilliant writer, Tom Friedman, last week. And I quote from his article, entitled "A Giant Restrained," on June 8 in the New York Times.

He says:

Put simply, the American economy now spends more that it can finance through domestic savings. To keep the economy growing, the United States must subtract foreign savings from countries like Japan. Otherwise, the economy will slow down. If Japanese investors are frightened by either the prospect of a trade war or of a devaluing American currency, they will be less willing to buy the bonds, stocks, and Treasury instruments that fuel the American economy.

"America can no longer have growth and a real get-tough Japan policy at the same time. It is our net debtor status and our current account deficit that imposes an inherit limitation on our freedom of action in international trade policy vis-a-vis Japan," said John Lipsky, the chief economist at Salomon Brothers.

In other words, every time the administration tries to bring leverage to bear on Japan, either the global interests of the United States or its global economic exposure forces Washington to hold back. Whenever the Clinton administration tries to exercise pressure by pulling one lever or another, that lever comes off in its hand. That is part of the article. I will put the entire article, of course, in the record at this point.

The CHAIRMAN. Now, that is not your responsibility; in a sense, that is your burden. Because as you go around and try to—I do not use the words, "get tough"—get realistic with our trading partners, this is a burden that constantly has to be borne on account of our

profligacy here at the National Government. The President and the Congress have been spending like drunken sailors here for the last 12 to 14 years.

If that is the coffin, what is the nail?

The nail, to this Senator is exactly our responsibility with respect to standards and with respect to tariff barriers.

I will never forget the 3-year series of hearings we had on fuel economy standards. I was referred in a rough fashion by the vice president of Chrysler, who came back years later and apologized. He said we were right. If they would have made more Omnis and more Horizons, they would not be begging around here for a multibillion dollar loan from the Government.

Now, how does that effect GATT, which is the subject here this morning of the hearing?

Well, after 3 years, we handled that bill on the floor. We wanted Adlai Stevenson to do it. He got disgusted the second day. Then Chairman Magnuson asked me, so I held some of the hearings and handled it. Senator Gaylord Nelson of Wisconsin was the big initiator here in that regard.

But this was the committee, before we had energy and all of that, that handled fuel economy standards. We found a booklet that says, "Report on United States barriers to trade and investment by the European Commission." And you will find on pages 52 and 53, it says that is a clear-cut violation of GATT—fuel economy standards—because it is a burden on the imported merchandise and to protect domestic industries—a violation of GATT. Of course, they have got 301 and all the rest. They have got a regular booklet.

And of course we have got the Japanese. Everybody is putting out a booklet. And they find that all of our good initiatives with respect to dumping and trying to maintain the economic strength of America, they are finding that these things are all in violation of GATT. And then I look upon that World Trade Organization and see that I am in the hands of the Philistines. I have put myself in the hands of Geneva bureaucrats, unelected by us.

In the Constitution, Article I, Section 8 says "the Congress shall regulate foreign commerce." But if this agreement went through, Congress, indirectly is saying "No, we do not want it, we want the Geneva boys to regulate it, and we do not have a veto."

Now, I know without a veto in the United Nations, there would not be an Israel. And so I am looking there, and I know it is not a matter just of trade and trade policy; it is a matter of perception that the United States is fat, rich, and happy. And the only way to get their attention is to gig them. And we are constantly losing in these international forums. Majority votes are always against us, whatever we think.

I think it is a mistaken thought that we have got a similar kind of economy or free market, as many have written that we do not, and their system works. And the consensus that is always referred to, Mr. Ambassador, is against us.

I am not going to go merrily down the road, and take all the work that has worked extremely well—the automobile manufacturers finally complied, finally apologized to us and everything else—working well—and then have these kind of things occur. We have

got example after example. The book is full of them, particularly with 301.

So, that is the misgiving that this Senator has, and one of the big reasons, of course, that Commerce has this hearing, because we are looking at standards—which is our responsibility—and tariff barriers.

Let me yield to Senator Packwood and Senator Pressler here.

OPENING STATEMENT OF SENATOR PACKWOOD

Senator PACKWOOD. Mr. Chairman, I do not have an opening statement either. But I will make a few comments.

Mr. Ambassador, I cannot resist the opportunity, publicly and privately, to chew on you from time to time about the GATT agreement. I can almost say I have never met a trade agreement I did not like. I cannot recall one that I have not supported. And I thought NAFTA was a 90/10 agreement for both Mexico and the United States and Canada. It was a win-win-win triple play.

I have more misgivings about GATT—not enough to commit myself for it or against it—but misgivings as follows:

One, there is a lot of talk about this being a clean bill, but there are amendments floating around that are neither necessary or appropriate to implement the agreement. On a scale of 1 to 10, they are not even a 1. We do not need them to implement the agreement, and we should not tie it to this bill in the hopes of getting something through that might not otherwise get through on its own.

Two, labor and environment. Trade bills ought to be trade bills. I do not want us to try to get in the position that Germany now finds itself in—and I frankly think most of continental Europe is going to find itself in—of extraordinarily high fringe benefit labor, social safety net costs which will eventually drive Europe to protectionism because they will not be able to unwind and undo their safety net.

There will be a temptation of some in this country to want to tie our standards to Europe's. And then we will all be uncompetitive. And I would certainly hope we do not try to tie labor or environment to this bill or ask for fast-track authority to negotiate those issues.

Three, subsidies. I do not have to berate you on this issue. You know the fear. Most Republicans would like to support this agreement, but we have some fear that we are codifying subsidies. Well, we are codifying subsidies and that is a step backward.

I know your position on it, and I will not pursue that further.

Funding. You know and I know this is not going anyplace unless we pay for it. There is no point in arguing about static versus unstatic revenue estimates. We are going to go on a static revenue estimate because everyone fears if we do not go on a static revenue estimate, everyone else will want to open it up for every single thing that they have ever conceived of. Give me $1 in education now and it pays back $10 10 years from now.

Whether that is social welfare or education or anything else, that is the argument everyone uses. But the poor budget director has to finance things this year, not 10 years from now.

So, we need the offsets, and we would much prefer that they be spending offsets rather than tax increases.

Dumping, countervailing. I am less worried about this than some, but I am frank to admit that a good many people who would otherwise support this are getting pressure from a number of American companies who fear that their ability to legitimately use dumping and countervailing statutes has been undermined by the agreement. And their fear is genuine. Their fear is genuine.

I am not saying that the substance of their arguments are valid. But in the business we are in, feelings and beliefs are as important as facts. And they fear that they are losing legitimate powers.

So, in conclusion, I want to congratulate you for negotiating the GATT. I do not know how you negotiate a treaty or an agreement with over 100 nations and get them all to sign on. But I think I can assure you it is not a done deal in this Congress. It is still up for grabs. I hope the few questions I have about it can be met and my feelings ameliorated. But you have got to know that there are some serious reservations about this agreement that, collectively put together, for different reasons, including the sovereignty argument—that is not one I fear, but including the sovereignty argument—you start putting together little aggregations of opponents, and they can add up to a majority.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you a lot. Senator Pressler.

OPENING STATEMENT OF SENATOR PRESSLER

Senator PRESSLER. Thank you very much.

I will submit my prepared statement for the record. Last week I attended an international telecommunications conference in Brussels sponsored by the European Wall Street Journal. It was quite an interesting and substantive conference. I found the Europeans were amazingly intransigent in not recognizing how unfair the telecommunications accounting rules are on long-distance telephone services. We subsidize the wealthy European countries by about $411 million a year in terms of termination charges on calls which they receive as a subsidy from our taxpayers and anybody who makes calls from the United States.

In addition, the European telecommunications companies—Siemens in Germany is a notable example—are heavily subsidized and are competing with U.S. companies selling switches in the United States. It goes on and on. It seems to be almost a game without any recourse under GATT or any other place. I hope, Mr. Ambassador, you will address the telecommunications imbalance with the wealthy European countries, because I do not see it being covered by our existing agreements.

Now, there is supposed to be some kind of agreement negotiated within a year, but in our markets things are so open compared to theirs. Their state-owned companies can come over here and buy a substantial portion of some of our private companies. There are a few things opening up. England is opening up a little bit, but really not anything like the United States.

In addition to that, we are asked to pay subsidies. And these are wealthy European countries. The whole telecommunications area—nobody pays much attention to it. But the attitude of the French

at this conference was outrageous, in my judgment. The attitude of the European bureaucrats who oversee oversee telecommunications policy was not much better.

It is a game that no one in the United States is aware of, or it is considered kind of small potatoes when you make a phone call. So, what if the Europeans get $2 or $3 of taxes out of it, or whatever it is—which is not true when the call goes the other way. But it adds up to real money—$411 million in Europe and about $2 billion a year worldwide.

I do not see that this GATT agreement is going to do anything about it. We are told that, down the road, it will. But it does not at this moment. There is nothing in this agreement. If I am concerned about telecommunications balance in trade, and if I vote for the implementing legislation, I am really doing a very foolish thing.

So, I do look forward to hearing you on the telecommunications trade issues this morning, because I was aghast at what appears to be our negotiators just letting them get by with it. And I have not heard very much protest from you or anybody else. I do not know if there is anyway we can get the ball on the bat. It is a bad situation.

Thank you, Mr. Chairman.

[The prepared statement of Senator Pressler follows:]

PREPARED STATEMENT OF SENATOR PRESSLER

Mr. Chairman, I want to thank you for convening this hearing on the proposed World Trade Organization (WTO).

Being competitive in world markets is key to the future economic growth of the United States. No longer is world supremacy based on military strength. Instead, supremacy will be based on economic strength.

A major factor in future U.S. economic growth will be expanding exports. Future trade opportunities will be determined by the new trade agreement signed by 125 countries at Marrakech, Morocco, on April 15, 1994. Trade liberalization under the new GATT will also determine economic opportunities for the world's developing countries to become fully developed and economically independent. The stakes are tremendous.

That is the reason we are here today. Earlier this week the Senate Foreign Relations Committee held a hearing, that I requested, on the WTO. The impact the WTO would have on U.S. sovereignty was discussed, and many questions and concerns still remain. I have asked for more hearings on the WTO to be held by the Foreign Relations Committee.

The WTO will be a legal entity that is different from the current GATT. The new WTO will govern and help shape the rules of trade among its member countries. Unlike GATT, which simply provides a framework of trade agreements, the WTO will have international legal status, headquarters, staff and a budget.

I am a free trader. I believe in free trade as long as it is on an equal basis. However, have strong reservations about the WTO. Many are saying the concerns over the WTO are foundless. I am not so certain.

Unlike the United Nations, where there is a Security Council of major powers who can stop something from going through, there is no such safeguard in the proposed WTO. am concerned that in about five or ten years, we might regret having created this WTO.

The full consequences of the WTO and the new agreement are just beginning to come to light. Many questions and concerns are being raised. Unfortunately there appears to be more questions than answers.

Concerns go beyond the creation of the WTO. Will U.S. telecommunications and computer companies benefit by the new GATT agreement? Will the subsidies provisions of the new GATT enhance or diminish U.S. competitiveness?

What impact will the WTO have on federal, state and local laws? What will be the budget of the WTO? How much of that budget will become the responsibility of the U.S.? To whom will the WTO, with its unelected bureaucracy, answer?

I look forward to hearing the testimony that is being presented today. Hopefully, many questions can be answered by their presentations.

The CHAIRMAN. Thank you. Senator Bryan.

OPENING STATEMENT OF SENATOR BRYAN

Senator BRYAN. Thank you very much, Mr. Chairman.

Let me at the outset compliment Ambassador Kantor for his very aggressive advocacy on behalf of American business. I have been very pleased to see that. It has obviously had some profound success. And that is to the great credit of you, the President, and this administration and I want to publicly compliment you for that position.

Ambassador KANTOR. Thank you.

Senator BRYAN. I share, Ambassador, some of the concerns that the chairman has expressed with respect to the impact that this new agreement will have on American domestic environmental policy. As you are aware, our chairman has been, for the last 20 years, one of the principal advocates for improved fuel economy—dating back to 1975, where, under the leadership of this committee and other members that were then in the Congress, we doubled our fuel economy standards, thereby saving millions of barrels of oil that would otherwise have been consumed, easing our dependence upon foreign oil—although we are dangerously increasing that dependence today—improving the environment by reducing CO_2 emissions, and easing the impact on our balance of payments problem.

You are very much aware of the fact that the European Union has challenged our CAFE standards. And under the existing mechanism, as I understand it, we have, in effect, a de facto veto. It may not be articulated quite that way, but because it requires ministerial consensus, we have a veto. As I read the provisions of the new WTO mechanism that is established, that is no longer the case.

And I must say that I think that it would be a terrible mistake if we allowed a situation to occur in which Europe or any other group of countries, individually or collectively, were able to dictate to the United States what our domestic policy ought to be that is not calculated or designed in any way to be discriminatory against foreign commerce. Its purpose was to ease our dependency upon foreign oil at a time in which we faced the aftermath of the OPEC embargo and, later, responded to the impact of the overthrow of the Shah of Iran.

I must tell you that I am quite concerned about this. I have a statement in which I address that in more detail, Mr. Chairman, but in deference to the time constraints and so that we can hear our Ambassador, I would like to ask unanimous consent that this statement of mine be made a part of the record.

The CHAIRMAN. It will be included.

Senator BRYAN. I will be very interested in hearing your response to those concerns about the provisions in the current GATT agreement.

[The prepared statement of Senator Bryan follows:]

PREPARED STATEMENT OF SENATOR BRYAN

Mr. Chairman, thank you for calling this hearing. I appreciate Ambassador Kantor's willingness to testify before the Committee.

I want to commend Ambassador Kantor for the work he has been doing as the United States Trade Representative—it has become clear that he has been a forceful advocate for American business and workers. it is also clear that without his strong

personal effort, the Uruguay Round negotiations could never have bean completed. There are many features of the GATT agreement that will clearly benefit the United States.

I do have concerns, however, with certain aspects of the agreement. Today, I would like to focus on the potential effect of GATT on U.S. environmental laws, particularly the Corporate Average Fuel Economy standards, or CAFE.

As we are all aware, over a year ago, members of the European Union initiated a challenge of U.S. CAFE laws under the current GATT system. The European Union claims that CAFE, and other U.S. environmental laws, are an unfair barrier to trade, and that the United States should be pressured to repeal them. While the results of the challenge have not yet been announced, and while I know that the USTR believes the United States will win, there are many who believe the United States will lose the challenge.

It is obvious to me that CAFE is not an unfair trade barrier. First and foremost, CAFE serves a vital national interest far removed from trade issues. it reduces our dependence on foreign oil, and it contributes to a cleaner environment. While fines assessed for CAFE violations may fall more heavily on certain foreign manufacturers, there is simply no truth to the assertion that such a situation results from a desire of the U.S. to penalize foreign automakers.

In fact, the responsibility for the disproportionate incidence of CAFE fines on certain foreign manufacturers lies with the manufacturers themselves. The manufacturers behind the GATT challenge of CAFE have chosen to market only large, fuel inefficient autos in the United States. Under CAFE, they are permitted to make this choice. However, like any U.S. manufacturer who chooses to make a similar decision, the foreign manufacturer-must pay the price for declining to meet U.S. environmental laws in the form of CAFE fines.

The inequity asserted by the GATT challenge is simply misguided. U.S. manufacturers, and many foreign manufacturers, have made the investment in research and equipment needed to comply with CAFE. Certain foreign manufacturers have not. To claim that CAFE is an unfair trade practice simply shows a lack of understanding of, and respect for, widely endorsed U.S. environmental goals.

It is disturbing to think that the United States may lose the current CAFE challenge. Under the current GATT, however, there is a simple solution. The U.S. can invoke what is essentially a veto power, and not agree to the finding of the GATT dispute panel. Should GATT decide against the United States in the CAFE challenge, I strongly urge the Administration to use this veto power.

The situation under the Uruguay Round agreement is different. The U.S. and other nations lose their veto power. There are only two remaining choices: change domestic laws to comply with the WTO finding, or face possible sanctions by the challenging nations. Such sanctions would first be directed against U.S. exports—essentially penalizing an industry which has invested so much to comply with the very standards being challenged.

I understand that one of the United States goals in the Uruguay Round negotiations was to improve the dispute resolution process. I also understand the United States is often the reverse position than in the CAFE challenge—that the United States is often in the position of challenging unfair trade practices in other nations. It is also clear that defining unfair practices is a matter of interpretation—that other nations may often assert what they consider to be legitimate national purposes for what we consider unfair trade restrictions.

However, I am still concerned that the Uruguay Round agreement does not adequately protect U.S. environmental laws. I am concerned that negative findings by an international trade panel may hinder efforts to increase CAFE standards in the future, or even lend credence to efforts to reduce or repeal the current standards.

Trade agreements are necessarily compromises. We give a little, they give a little. However, if the price of the Uruguay Round agreement is an attack on our most important environmental safeguards, then I am afraid we have given too much.

After all, shouldn't the United States be allowed to determine our own environmental standards, and then enforce them?

I know that Ambassador Kantor has given this issue serious thought, and I look forward to his response to my concerns.

The CHAIRMAN. Very good.

Ambassador Kantor, we welcome you. We are delighted to hear from you. Right to the point, your statement that we just received, in its entirety, will be included, and you can deliver it as you wish or highlight it.

STATEMENT OF HON. MICHAEL KANTOR, UNITED STATES TRADE REPRESENTATIVE

Ambassador KANTOR. Given the beginning, maybe I ought to read it very slowly, Mr. Chairman. [Laughter.]

The CHAIRMAN. We have got time.

Ambassador KANTOR. I am not going to do that. I appreciate your putting it in the record. I will try to quickly run through and just summarize it, and if I might attempt to at least generally address what has been raised here initially, and then we can—obviously, I am available as long as the Chair and the committee would wish to answer any questions you might have.

I appreciate the congratulations of finishing the negotiations. I would note at the outset that the United States has taken the lead under three administrations in attempting to both initiate and finish the Uruguay Round.

This agreement plays to the strengths of our economy and will grow hundreds of thousands of jobs in the future. It will increase our gross product over 10 years about $1 trillion, and will add about $17,000 in median income over 10 years to the average American family.

It has substantial positive economic impact on our country. It will cut foreign tariffs on manufactured products by 40 percent. It will expand export opportunities for U.S. agricultural products all over the world.

It limits subsidies, No. 1. It limits internal supports in Europe, which have been a plague, as Senator Pressler knows, to some of his farmers in his State and have put them in an unfair situation, and it limits the ability of foreign governments to block exports through tariffs, quotas, subsidies, and the like.

Intellectual property for the first time is brought under the disciplines of a multilateral trade agreement. As you know, we lose from $40 to $60 billion a year because of pirating and other practices by foreign governments, especially in the developing world.

This is a single undertaking, therefore every country, the 124 who signed—it is really 123 plus the European Union—must undertake the same or comparable responsibilities.

We led the effort to complete the Round. We provided the leadership under this President, but building on frankly the hard and good and effective work of two administrations, the Reagan and Bush administrations. They deserve credit as well. This is ambitious. It is far reaching. The implementation legislation will be a major undertaking.

I appreciate the work done by this body and this committee and your staff that you have already done in drafting the legislation that will implement the Round.

If I might, Mr. Chairman, I will just review very quickly some of the highlights, and then obviously want to address the questions that have been raised here.

In the technical barriers to trade area, the TBT agreement in the Uruguay Round improves the rules regarding standards and technical regulations; provides that standards, regulations, and conformity assessment procedures are not discriminatory or used by governments to create unnecessary obstacles to trade.

Unlike the existing code, every country that is a member of the WTO will be required to implement the new TBT agreement. That is a big change, Mr. Chairman.

As you know, in the Kennedy Round and the Tokyo Round very few nations signed up. We created a system of free riders in the world where many countries took on the benefits of these agreements, but not the responsibilities.

For the first time, this agreement requires every signatory to take on the responsibilities as well. Frankly, I think it is a welcome change.

In the sanitary and phytosanitary area this agreement is designed to distinguish legitimate S&P measures from trade protectionist measures. For example, S&P measures must be based on scientific principles and not maintained without sufficient scientific evidence. They must be based on assessment of the risk to health appropriate to the circumstances.

The S&P agreement safeguards U.S. animal and plant health measures, and includes safety requirements. The agreement clearly recognizes and acknowledges the sovereign right of each government to establish the level of protection of human, animal, and plant life and health deemed appropriate by that government. Furthermore, the United States has a long history of basing our measures in this area on scientific principles and risk assessment.

Each government remains free to adopt an S&P measure more stringent than the relevant international standard, where the government determines that the international standard does not provide the level of protection that the government deems appropriate. Finally, there are provisions on transparency in this agreement that go beyond where we have been before, which are quite helpful.

In TRIP's or trade-related intellectual property rights, trade in U.S. goods and services protected by intellectual property rights reflects a consistent trade surplus. For example, U.S. copyright industries, movies, computer software, sound recordings, pharmaceuticals are consistently the top U.S. export earners.

Strength in protection of intellectual property rights and enforcement of those rights, as provided in the TRIP's agreement, will enhance our competitiveness, encourage creative activity, and expand exports and, frankly, create more jobs.

The TRIP's agreement establishes for the first time detailed multilateral obligations to provide and enforce intellectual property rights. Again, the agreement obligates all members to provide strong protection in the areas of copyrights and related rights, patents, trademarks, trade secrets, and so on. Most importantly, countries are then obligated to provide effective enforcement of these standards.

In antidumping area, Mr. Chairman, we have preserved our antidumping and countervailing duty laws. There is no question about that. Clearly there were changes that needed to be made, and in the last number of weeks before we finished on December 15, 1993, we made eight significant changes in the so-called draft final act which most believe—most believe have preserved and protected our antidumping laws.

We have also preserved, frankly, section 301 in its entirety. It will be just as effective under the WTO or Uruguay Round as it has been under previous arrangements under the GATT.

Let me just explain in the antidumping area, we had an addition of an explicit standard of review that will make it more difficult for disputes among panels to second guess U.S. antidumping determinations. We removed the anticircumvention provision, which would have weakened existing U.S. anticircumvention law.

We modified the rigid sunset provision, which would have required near automatic termination of antidumping orders after 5 years. We made an addition or express authorization for the ITC's practice of accumulating imports from different countries and determining injury. We also made improvements in the standing provision that protects the rights of others to participate, including unions and workers, in antidumping proceedings.

Frankly, this agreement is a good agreement in that regard, and that is part of the whole sovereignty question that has been raised. We have preserved our trade laws while reaching a better dispute settlement mechanism that is in our interest frankly, Senator Bryan, in order to protect U.S. businesses. And I will get to that later.

Let me make one final note, Mr. Chairman, on this question of sovereignty. I would like to read, if I might, from the section 102(a) of the implementation legislation the administration will bring to the Congress in order that this committee will be satisfied that what has been done in this agreement does nothing to undermine the sovereignty of the United States. I believe it is critical, frankly critical, that this committee understands that what we have done here thoroughly protects our sovereignty.

It says, section 102(a), relationship of agreements to United States law, paragraph 1:

> United States law to prevail in conflict. No provision of any Uruguay Round Agreement, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.
>
> (2) Construction. Except as otherwise specifically provided in this Act, nothing in this act shall be construed, (A) to amend or modify any law of the United States, including any law relating to the protection of human, animal, or plant life or health, the protection of the environment, or worker safety, or (B) to limit any authority conferred under any law of the United States.

I think that is about as clear as we can be about the protection of U.S. sovereignty under the Uruguay Round.

Frankly, Mr. Chairman, by lowering tariffs, by getting rid of nontariff barriers, by for the first time reducing subsidies in agriculture, by reducing internal supports in the European Union, which we do not have to do here in the United States because in the 1985 and 1990 farm bills we reduced our internal supports to the degree that we do not have to do it under the draft final act; because we have already met the standard of a 20-percent reduction, frankly; because we have protected intellectual property; because we have covered services which represent 60 percent of our businesses and 70 percent of our workers in our economy for the first time; because we have a dispute settlement mechanism that makes section 301 a more effective tool for us in the future, this agreement is in the interest of not only the U.S. Government and our businesses but clearly in the interest of U.S. workers.

Thank you.

[The prepared statement of Ambassador Kantor follows:]

PREPARED STATEMENT OF AMBASSADOR MICHAEL KANTOR

Mr. Chairman, thank you very much. I appreciate the opportunity to be here today to discuss with you the Uruguay Round agreement and how it will benefit U.S. commerce.

Mr. Chairman, last December in Geneva, the United States took the lead in completing the Uruguay Round, bringing seven years of negotiations to a successful conclusion. On April 15th, 111 nations signed the agreement, paving the way for vitally needed global economic growth.

The broadest, most comprehensive trade agreement in history, the Uruguay Round builds a new—and better—foundation for the global trading system. It contains major reductions or elimination of tariff and non-tariff barriers, and a new set of trading rules suitable for the global economy as we approach the 21st century. These rules aid key sectors of our economy that are growing and becoming more important for U.S. competitiveness. The Round will cut foreign tariffs on manufactured products by over one third, the largest reduction in history. The Round will greatly expand export opportunities for U.S. agricultural products by reducing use of export subsidies and by limiting the ability of foreign governments to block exports through tariffs, quotas, subsidies, and a variety of other domestic policies and regulations.

In addition, the Uruguay Round agreement establishes rules of trade for key sectors of our economy that are growing and becoming more important for U.S. competitiveness. The intellectual property of U.S. entrepreneurs in industries such as pharmaceuticals, entertainment and software gain new protection against piracy in world markets. The Round also ensures open foreign markets for U.S. exporters of services such as accounting, advertising, computer services, tourism, engineering and construction. Finally, at a time that U.S. exports to developing countries are becoming an increasingly important area of economic opportunity, the Round ensures that developing countries live by the same trade rules as developed countries and that there will be no free riders.

This agreement helps our largest exporters, like aerospace and computer companies, and benefits our fastest growing exporters, like chemical products and electronics. And it helps small businesses by reducing paperwork, simplifying or eliminating import licensing requirements, and harmonizing customs procedures.

The Uruguay Round plays to our strengths as the world's largest trading country, exporter and most productive economy. It opens foreign markets to an unprecedented degree at precisely the time when our companies and workers have honed their competitive edge. It will create thousands of additional high-wage, high-skill jobs for U.S. workers in the coming decade. For these reasons, the Uruguay Round agreement has received broad support from the U.S. private sector.

President Clinton is gratified that this Administration had the opportunity to help conclude this historic agreement, but make no mistake about it, this was a bipartisan effort. We were able to build on the work of our predecessors Presidents Reagan and Bush, and Trade Representatives Brock, Yeutter and Hills, and the steadfast, bipartisan support of members of Congress from both parties.

Indeed, the Uruguay Round both caps off and epitomizes the Post-World War II record of U.S. leadership and bipartisan cooperation toward the goal of more open markets and expanded trade, which has led to a half century of unprecedented global growth.

The United States led the effort to complete the Round. Now, we must lead the effort to implement the Round and make it work to the benefit of all people. Failure to ratify the Uruguay Round promptly would greatly undermine U.S. global leadership, and deny U.S. workers and businesses of major economic opportunities.

Careful consideration of the Agreement, the history of practice in the multilateral trading system, and our overall economic interests lead to the conclusion that acceptance of this Agreement is in the interest of the United States.

It is critical to global and U.S. economic growth that we move ahead to implement the results of the Uruguay Round. The Clinton Administration intends to introduce the legislation to implement the Uruguay Round, work with the Congress and muster bipartisan support to see the Round implemented this year. The Uruguay Round agreement is scheduled to enter into force on January 1, 1995; as global leaders the United States has the responsibility to approve this agreement on time. The Uruguay Round agreement is ambitious and far-reaching, and consequently the implementing legislation will also be a major undertaking. I appreciate very much the work that the members of this body along with their staffs already have done in drafting the legislation that will implement the Round. I, along with others in this

Administration, am committed to reviewing the legislation in as much depth as members want. For that reason, I will now spend a few minutes describing some of the ways in which the Uruguay Round agreements will benefit U.S. workers, producers and consumers.

INDUSTRIAL MARKET ACCESS

The United States achieved substantially all of its major objectives in the industrial goods market access negotiations. As a result, increased market access opportunities will be available to U.S. exporters of industrial goods.

Key provisions of the market access for goods agreement include:

- Expanded market access for U.S. exporters through tariff reductions secured from countries which represent approximately 85 percent of world trade;
- The elimination of tariffs in major industrial markets, and significantly reduced or eliminated tariffs in many developing markets, in the following areas: Construction Equipment, Agricultural Equipment, Medical Equipment, Steel, Beer, Distilled Spirits, Pharmaceuticals, Paper, Toys, and Furniture;
- Deep cuts ranging from 50 to 100 percent on important electronics items (semiconductors, computer parts, semiconductor manufacturing equipment) and on scientific equipment by major U.S. trading partners;
- Harmonization of tariffs by developed and major developing countries in the chemical sector at very low rates (0, 5.5 and 6.5 percent); and
- Vastly increased scope of tariff bindings at reasonable levels from developing countries, which will ensure predictability and certainty for traders in determining the amount of duty that will be assessed.

In general, most tariff reductions will be implemented in equal annual increments over 5 years. Some tariffs, particularly in sectors where duties will fall to zero, such as pharmaceuticals, will be eliminated when the agreement enters into force. Other tariffs, in sensitive sectors for the United States, will be phased-in over a period of up to ten years.

AGRICULTURE

The Uruguay Round agreement on agriculture strengthens long-term rules for agricultural trade and assures the reduction of policies that distort agricultural trade. U.S. agricultural exports will benefit significantly from the reductions in export subsidies and the market openings provided by the agriculture agreement.

The United States was successful in its effort to develop meaningful rules and explicit reduction commitments in each area of the negotiations: export subsidies, domestic subsidies and market access. For the first time, agricultural export subsidies and trade-distorting domestic farm subsidies are subject to explicit multilateral disciplines, and must be bound and reduced. In the area of market access, the United States was successful in achieving the principle of comprehensive tariffication which will lead to the removal of import quotas and other non-tariff import barriers. Under tariffication, protection provided by non-tariff import barriers is replaced by a tariff and minimum or current access commitments are required. For the first time, all agricultural tariffs (including the new tariffs resulting from tariffication) are bound and reduced.

Reduction commitments will be phased in during 6 years for developed countries and 10 years for developing countries. Budgetary outlays for export subsidies must be reduced by 36 percent and quantities exported with export subsidies cut by 21 percent from a 1986-90 base period. Non-tariff import barriers such as variable levies, import bans, voluntary export restraints and import quotas, are subject to the tariffication requirement. For products subject to tariffication, current access opportunities must be maintained and minimum access commitments may be required. Existing tariffs and new tariffs resulting from tariffication will be reduced by 36 percent on average (24 percent for developing countries) with a minimum reduction of 15 percent for each tariff line item (10 percent for developing countries). All tariffs will be bound.

Trade-distorting internal farm supports must be reduced by 20 percent from 1986-88 base period levels, allowing credit for farm support reductions undertaken since 1986. Direct payments that are linked to production-limiting programs will not be subject to the reduction commitment if certain conditions are met. Domestic support programs meeting criteria designed to insure that the programs have no or minimal trade distorting or production effects ("green box") also are exempted from reduction commitments. Due to the farm support reductions contained in the 1985 and 1990 Farm Bills, the United States already has met the 20 percent requirement and will not need to make additional changes to farm programs to comply with the Uruguay Round commitments.

Internal support measures and export subsidies that fully conform to reduction commitments and other criteria will not be subject to challenge for nine years. However, subsidized imports will continue to be subject to U.S. countervailing duty procedures, except for domestic support meeting the "green box' criteria, which will be exempt from countervailing duty actions for nine years.

SANITARY AND PHYTOSANITARY MEASURES (INCLUDING FOOD SAFETY STANDARDS)

The Agreement on the Application of Sanitary and Phytosanitary ("S&P") Measures will guard against the use of unjustified S&P measures to keep out U.S. agricultural exports. S&P measures are laws, regulations and other measures aimed at protecting human, animal and plant life and health from risks of plant- and animal-borne pests and diseases, and additives and contaminants in foods and feedstuffs. They include a wide range of measures such as quarantine requirements and procedures for approval of food additives or for the establishment of pesticide tolerances. The S&P agreement is designed to distinguish legitimate S&P measures from trade protectionist measures. For example, S&P measures must be based on scientific principles and not maintained without sufficient scientific evidence and must be based on an assessment of the risk to health, appropriate to the circumstances.

The S&P agreement safeguards U.S. animal and plant health measures and food safety requirements. The agreement clearly recognizes and acknowledges the sovereign right of each government to establish the level of protection of human, animal and plant life and health deemed appropriate by that government. Furthermore, the United States has a long history of basing its S&P measures on scientific principles and risk assessment.

In order to facilitate trade, the S&P agreement generally requires the use of international standards as a basis for S&P measures. However, each government remains free to adopt an S&P measure more stringent than the relevant international standard where the government determines that the international standard does not provide the level of protection that the government deems appropriate.

Because there may often be a range of S&P measures available to achieve the same level of protection, the agreement provides for an importing member to treat another member's S&P measure as equivalent to its own if the exporting member shows that its measures achieve the importing member's level of protection. The agreement also provides for adapting S&P measures to the sanitary or phytosanitary characteristics of a region, in particular calling for recognition of pest- or disease-free areas and areas of low pest or disease prevalence. For example, if an exporting member can assure an importing member that a particular area or region is free of pests or diseases of concern to the importing member, the exporting member should be able to trade from that area.

Finally, there are provisions for transparency of S&P measures, including public notice and comment and the maintenance of inquiry points where information about S&P measures can be obtained.

In the final days of the negotiations, the United States was able to obtain several improvements in the S&P agreement to respond to environmental concerns. The original S&P text provided that S&P measures must "* * * not be maintained against available scientific evidence." This language was unclear and did not take account of the fact that there is often conflicting scientific evidence. This section of the Agreement was changed to "* * * not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5." Paragraph 7 of Article 5 allows a member to provisionally adopt S&P measures on the basis of available pertinent information where there is insufficient relevant scientific evidence.

To clarify that no "downward harmonization" of S&P measures is required under the agreement, the U.S. obtained an explanatory footnote to paragraph 3 of Article 3, which provides that a "scientific justification" is one basis for introducing or maintaining a measure more stringent than the relevant international standard. The footnote explains that "there is a scientific justification if, on the basis of an examination and evaluation of available scientific information * * * a Member determines that the relevant international standards * * * are not sufficient to achieve its appropriate level of protection."

The United States also succeeded in obtaining changes to the original S&P text requirement that members "ensure that * * * measures are the least restrictive to trade, taking into account technical and economic feasibility." This language was unclear and could be given an overly narrow, unreasonable interpretation. The revised language requires that members ensure that their S&P measures are "not more trade restrictive than required to achieve their appropriate level of protection, taking into account technical and economic feasibility." In addition, a footnote was inserted clarifying that a measure is not more trade restrictive than required unless

there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of protection and is significantly less restrictive to trade. These two changes make it clear that a member is not required to adopt unreasonable S&P measures or to change a measure based on insignificant trade effects.

Furthermore, we believe that U.S. sanitary and phytosanitary measures are not more trade restrictive than required, taking into account technical and economic feasibility. The U.S. does not seek through its sanitary and phytosanitary measures to provide extra trade protection.

TECHNICAL BARRIERS TO TRADE

The Agreement on Technical Barriers to Trade (TBT) improves the rules regarding standards and technical regulations. In particular, the agreement provides that standards, technical regulations and conformity assessment procedures (e.g.,testing, inspection, certification, quality system registration, and other procedures used to determine conformance to a technical regulation or standard) are not discriminatory or otherwise used by governments to create unnecessary obstacles to trade. The Agreement improves disciplines concerning the acceptance of results of conformity assessment procedures by another country and enhances the ability of a foreign-based laboratory or firm to gain recognition under another country's laboratory accreditation, inspection or quality system registration scheme. The Agreement includes a process for the exchange of information, including the ability to comment on proposed standards-related measures made by other WTO Members and a central point of contact for routine requests for information on existing requirements. Furthermore, unlike the existing TBT Code every country that is a Member of the new WTO will be required to implement the new TBT Agreement.

The new TBT Agreement ensures that each country has the right to establish and maintain standards and technical regulations at its chosen level of protection for human, animal and plant life and health and of the environment, and for prevention against deceptive practices. The Agreement generally requires the use by governments of international standards, when these are effective and appropriate. At the same time it provides that the general obligation to use international standards will not result in downward harmonization.

TEXTILES AND CLOTHING

The textile and apparel sector had always been a critical one in this Round. The Administration was insistent on five key goals: 1) that in light of the phase-out of the MultiFiber Arrangement (MFA), that tariff cuts in this sector be held to a minimum; 2) that the phase-out of the MFA occur in a gradual manner that would permit our industry to adjust over time to the changes in the trading system; 3) that foreign markets be opened to U.S. textile and clothing exports for the benefit of U.S. workers; 4) that the U.S. retain control over which products would be integrated into the GATT at each stage of the phase-out period; and 5) that strong safeguards be included in order to provide protection in the event of damaging surges in imports during the phase-out period.

We believe we have done very well in achieving those goals. While some in the sector had favored a 15-year phase-out of the MFA, we believe the 10-year period and the manner in which the phase-out is structured will give us ample tools to ensure a smooth transition. No limitations were placed on our right to make our own decisions about which products would be integrated at any given stage of the phase-out. This will ensure that the Administration can take into account the sensitivity of any given item in determining when quotas would be removed from that product in order to integrate it into the GATT.

In addition, the agreement includes strong safeguards that will allow us to take action against any import surges that might occur during the phase-out period.

In the area of tariffs, in recognition of the fact that the MFA will be phased out, the Administration resisted EC demands to cut all our peak tariffs by 50 percent. In fact, while the average U.S. tariff cut on all industrial items is 34 percent, the U.S. offer reduces textile and clothing tariffs by less than 12 percent overall. Particularly sensitive products received an even lower cut.

We also fought hard for commitments to open markets abroad for U.S. textile and apparel products. While we made very substantial progress in opening markets in most countries, we refused to close on inadequate offers—notably those of India and Pakistan—and are working vigorously to secure improved offers from these and other countries. We also ensured that non-WTO members, such as China, would not receive the benefit of the MFA phase-out until they become members of the WTO.

ANTIDUMPING

The U.S. objectives in the Uruguay Round antidumping negotiations were to improve transparency and due process in antidumping proceedings, develop disciplines on diversionary dumping, and ensure that the antidumping rules continue to provide an effective tool to combat injurious dumping. The Agreement substantially achieves these objectives.

Among the most important aspects of the new Agreement are:

- Addition of an explicit standard of review that will make it more difficult for dispute settlement panels to second-guess U.S. antidumping determinations;
- Removal of the anti-circumvention provision which would have weakened existing U.S. anti-circumvention law;
- Modification of a rigid sunset provision that would have required near-automatic termination of antidumping orders after five years;
- Addition of express authorization for the ITC's practice of "cumulating" imports from different countries in determining injury to a domestic industry;
- Improvements in the standing provisions that protect the rights of unions and workers to file and support antidumping petitions and that clarify the degree of support required for initiating an investigation.

There are other important aspects of the final Antidumping Agreement that make it a good agreement for the United States. One such aspect is the transparency and due process requirements proposed by the United States at the beginning of the Uruguay Round and accepted in their entirety. For example, the Agreement requires investigating authorities to provide public notice and written explanations of their actions. These new requirements should benefit U.S. exporters by improving the fairness of other countries' antidumping regimes.

The Agreement also incorporates important aspects of U.S. antidumping practice not previously recognized under the 1979 Antidumping Code. These fundamental aspects of U.S. antidumping practice are now immune from GATT challenge. For example, the agreement expressly authorizes the International Trade Commission's "cumulation" practice of collectively assessing injury due to imports from several different countries and the Department of Commerce's practice of disregarding below-cost sales, if they are substantial, in determining fair value for export sales.

The Antidumping Agreement will require some changes in existing U.S. antidumping law. These changes, however, will not jeopardize our ability to combat unfair trade practices. Many of these changes are the result of the much greater detail in the new Agreement concerning the methodology investigating authorities may apply in conducting antidumping investigations. These methodological definitions will add valued predictability to all antidumping practices and protect conforming U.S. practices from GATT challenge.

SUBSIDIES AND COUNTERVAILING MEASURES

The Subsidies Agreement establishes clearer rules and stronger disciplines in the subsidies area while also making certain subsidies non-actionable, provided they are subject to conditions designed to limit distorting effects. The Agreement creates three categories of subsidies and remedies: (1) prohibited subsidies; (2) subsidies which are actionable if they cause adverse trade effects; and (3) subsidies which are non-actionable if they are structured according to criteria intended to limit their potential for distortion.

The Agreement prohibits export subsidies, including de facto export subsidies, and subsidies contingent upon the use of local content. It also establishes a presumption of serious prejudice in situations where the total ad valorem subsidization of a product exceeds 5 percent, or when subsidies are provided for debt forgiveness or to cover operating losses.

Subject to specific, limiting criteria, the Agreement makes three types of subsidies nonactionable. Government assistance for regional development is non-actionable to the extent that the assistance is provided within regions that are determined to be disadvantaged on the basis of neutral and objective criteria and the assistance is not targeted to a specific industry or group of recipients within eligible regions. Government assistance to meet environmental requirements is non-actionable to the extent that it is limited to a one-time measure equivalent to not more than 20 percent of the costs of adapting existing facilities to new standards and does not cover any manufacturing cost savings which may be achieved.

Government assistance for industrial research and development is non-actionable if the assistance for "industrial research" is limited to 75 percent of eligible research costs and the assistance for "pre-competitive development activity" (through the creation of the first, noncommercial prototype) is limited to 50 percent of eligible costs. We successfully negotiated changes to the original R&D criteria so that they pro-

vided protection to our existing technology programs while ensuring that development or production support provided by other countries is not protected. The Administration intends to scrutinize strictly all claims of entitlement by other countries to protection under this provision. We also intend to use the review of the provision which will occur 18 months after implementation of the Uruguay Round agreement to ensure the provision has not been abused. We are convinced that under this provision the United States will be able to continue to cooperate with industry to develop the technologies of tomorrow without the threat of countervailing duty actions, while ensuring that other countries cannot provide development or production subsidies free from such actions.

Both the non-actionable subsidy provisions and the provisions establishing a rebuttable presumption of serious prejudice will expire automatically 5 years after the entry into force of the agreement, unless all WTO members decide to continue them in current or modified form. In other words, we have a veto. If we are dissatisfied with how the non-actionable provisions have been applied, we will not agree to their continuation.

The Agreement also makes countervailing duty rules more precise, and in many cases reflects U.S. practice and methodologies. For example, for the first time, GATT rules will explicitly recognize U.S. "benefit-to-the-recipient" standard. In addition,the Agreement imposes multilateral subsidy disciplines on developing countries. Although subject to certain derogations, a framework has been established for the gradual elimination of export subsidies and local content subsidies maintained by developing countries.

TRADE-RELATED INTELLECTUAL PROPERTY RIGHTS

Trade in U.S. goods and services protected by intellectual property rights reflects a consistent trade surplus. For example, U.S. copyright industries—movies, computer software, and sound recordings—are consistently top U.S. export earners. U.S. semiconductors are found in the computers and appliances we all use each day. U.S. pharmaceutical companies are among the most innovative, and our exports of these important products have been growing. Strengthened protection of intellectual property rights and enforcement of those rights as provided in the TRIPs agreement will enhance U.S. competitiveness, encourage creative activity, and expand exports and the number of jobs.

The TRIPs agreement establishes, for the first time, detailed multilateral obligations to provide and enforce intellectual property rights. The Agreement obligates all Members to provide strong protection in the areas of copyrights and related rights, patents, trademarks, trade secrets, industrial designs, geographic indications and layout designs for integrated circuits.

In the area of copyrights the text resolves some key trade problems for U.S. software, motion picture and recording interests by:

- protecting computer programs as literary works and databases as compilations;
- granting owners of computer programs and sound recordings the right to authorize or prohibit the rental of their products;
- establishing a term of 50 years for the protection of sound recordings as well as requiring Members to provide protection for existing sound recordings; and
- setting a minimum term of 50 years for the protection of motion pictures and other works where companies may be the author.

In the area of patents the Agreement resolves long-standing trade irritants for U.S. firms. Key benefits are:

- product and process patents for virtually all types of inventions, including pharmaceuticals and agricultural chemicals;
- meaningful limitations on the ability to impose compulsory licensing, particularly on semiconductor technology; and
- a patent term of 20 years from the date the application is filed.

As for trademarks, the Agreement:

- requires trademark protection for service marks;
- enhances protection for internationally well-known marks;
- prohibits the mandatory linking of trademarks; and
- prohibits the compulsory licensing of marks.

The Agreement also provides rules for the first multilaterally agreed standards for protecting trade secrets, and improved protection for layout designs for integrated circuits. Provisions on protection for geographic indications and industrial designs are consistent with U.S. law and regulations.

Most importantly, countries are then obligated to provide effective enforcement of these standards, including meeting due process requirements and providing the remedies required to stop and prevent piracy.

While the transition period for developing countries is too long and we must still work to ensure that U.S. sound recording and motion picture producers and performers receive national treatment and obtain the benefits that flow from their products, the TRIPs agreement is a major step forward in guaranteeing that all countries provide intellectual property protection and deny pirates safe havens.

SOVEREIGNTY

In recent weeks some have expressed concern that the Uruguay Round agreement and the creation of the World Trade Organization (WTO), may infringe on U.S. sovereignty. I would like to take a few moments to clear the air on this important and legitimate issue.

Mr. Chairman, the Clinton Administration believes strongly in the importance of vigilantly protecting and enhancing U.S. sovereignty. Raising questions about this issue is proper and helpful. We should be concerned with how trade agreements affect U.S. sovereignty.

However, it is the conclusion of the Clinton Administration that the Uruguay Round agreement and the WTO do not infringe on U.S. sovereignty. Numerous trade experts and other thoughtful commentators from all points on the political spectrum have agreed. In fact, by creating jobs and fostering economic growth in this country, the Uruguay Round strengthens our competitiveness, and enhances U.S. sovereignty.

- The WTO does not affect the sovereignty of the U.S. to pass its own laws, to enforce existing laws, or to set its own environmental or health standards. Only the U.S. Congress has the authority to change U.S. law.
- The U.S. will benefit from the new dispute settlement procedures, which will prevent countries from blocking adverse panel reports. As the world's leading exporter, we need an effective remedy against foreign unfair trade barriers. The new dispute settlement system is precisely what Congress instructed U.S. negotiators to obtain.
- The WTO will continue the GATT tradition of operating by consensus. The substantive provisions of the WTO can be amended only by consensus. No change in the substantive rights and obligations of the U.S. can occur unless the U.S. agrees to accept it.
- The U.S. will continue to be able to use Section 301, antidumping and countervailing duty laws to address unfair trade practices and enforce our rights. The Administration is committed to continue to open markets for U.S. goods and services abroad.

U.S. TRADE LAWS PRESERVED INTACT

The Uruguay Round will not impair the effective enforcement of U.S. trade laws, especially Section 301 and our antidumping and countervailing duties laws. In particular, our trade laws will continue to be our most important and effective response to dumping and subsidies that injure U.S. industries.

As a result of the Uruguay Round agreements, Section 301 will be even more effective than it has been in past in addressing foreign unfair trade barriers. We have an improved dispute settlement system with tight time periods for action, panel reports that cannot be blocked by one party and the right of cross-sectoral retaliation. These changes correct deficiencies in the old system and mean that when we bring a successful challenge, we will have the leverage to insist that the offending government remedy its violations.

Furthermore, the Uruguay Round agreements will substantially enhance the ability of the United States to use Section 301 successfully to pursue unfair foreign practices in the areas of trade in services and the protection of intellectual property rights. These areas will be subject to the disciplines of a multilateral trade agreement for the first time and the DSU permits "cross-retaliation." For example, when the United States successfully challenges a violation of the TRIPs Agreement, the defending government will know that unless the matter is resolved the United States can take equivalent counter-action under Section 301 against that country's exports of goods to the United States.

Some countries have even tried to claim that the WTO will restrict the ability of the United States to use Section 301 because it requires a member to abide by the DSU rules and procedures when it seeks to redress a violation of the WTO. There is however absolutely no basis for such a claim. Since 1979 Section 301 has required the Trade Representative to resort to the dispute settlement provisions of the GATT if a section 301 investigation involved a GATT agreement. The DSU will therefore make no changes in the way the United States conducts Section 301 investigations.

Section 301 will also remain fully available to address unfair practices that are not covered by the WTO or GATT or that are committed by non-WTO members. As in the past, such investigations will not involve recourse to multilateral dispute settlement procedures. Moreover, the mere fact that the Uruguay Round agreements treat a particular subject matter—such as intellectual property rights—does not mean that the Trade Representative must initiate DSU proceedings in every Section 301 investigation involving that subject matter. In the event that the actions of the foreign government in question fall outside the disciplines of those agreements, the Section 301 investigation would proceed without recourse to DSU procedures.

There is no basis for concern that the Uruguay Round agreements in general, or the DSU in particular, will make future Administrations more reluctant to apply Section 301 sanctions that may be inconsistent with U.S. trade obligations because such sanctions could engender DSU-authorized counter-retaliation. Just as the United States may now choose to take Section 301 actions that are not GATT-authorized, governments that are the subject of such actions may choose to respond in kind. That situation will not change under the Uruguay Round agreements. The risk of counter-retaliation under the GATT has not prevented the United States from taking unauthorized actions in connection with such matters as semiconductors, pharmaceutical, beer, and hormone-treated beef.

CONCLUSION

We live in an interdependent world with a globalized economy. Trade now represents over a quarter of our economy. In 1992, over 7 million workers in the U.S. owed their jobs to merchandise exports, and an additional 3.5 million owed their jobs to exports of services. On average, every billion dollars of merchandise trade exports results in 16-17 thousand new jobs-here at home; jobs that pay, on average, 17 percent higher than the U.S. average wage.

As a mature economy, our future growth, and our ability to create high wage jobs, is linked to our ability to open markets and expand trade. We must continue to reduce trade barriers in our historic trading partners such as Europe and Japan, and we must open markets and expand trade in dynamic emerging economies in Asia and Latin America. The Uruguay Round creates a foundation for doing that. It makes trade a two-way street, while fostering growth here at home, and around the world.

From time to time, we will get into disputes with other countries. They will challenge our trade practices and we will challenge theirs. But that does not mean we lose our sovereignty. It does mean that we need a strong, effective and fair dispute settlement process.

We must ask ourselves this question: Will we engage in the world, or will we withdraw behind walls of fear? Rejecting the Uruguay Round would end fifty years of the United States leading global growth through expanded trade, and deprive U.S. workers and companies of vast economic opportunities. Embracing the Round means the United States leads the world on a path of increased prosperity into the next century. And the nations that join the WTO—especially the United States—will reap the benefits of the global economy, without losing sovereignty. Thank you very much.

The CHAIRMAN. Thank you very much. Mr. Ambassador, you remind us back in 1979 when we had Ambassador Strauss, same act, same scene, Tokyo Round, millions of jobs created, billions in trade, what a wonderful thing. And after and since the 1979 Tokyo Round we have accumulated $1 trillion in trade deficits. We have moved from a predator status in the United States to a debtor status. The real income of the middle class has declined, and we have lost 2 million manufacturing jobs.

Now, the estimates—there have been various articles about the so-called hundreds of thousands of jobs, and the claim that it will expand 1 trillion dollars' worth of trade over the 10 years. The World Bank and the OECD predict the gains from GATT will be only $160 billion over 10 years, rather than that $1 trillion.

Garry Huffbauer and Kim Elliott of the Institute for International Economics, who supported NAFTA incidentally, estimate that GATT will generate $42 billion in GNP over the 10 years. Wil-

liam Klein of the Institute for International Economics, he wrote their highly critical report of the MFA.

So, he was on your side back in 1986. He thinks that efficiency gains from GATT will only be $4.5 billion over 10 years. Dean Baker and Thayer Lewis Lee of the Economic Policy Institute estimate the 10-year impact will be between $6 to $7 billion.

I had better quit reading. We will lose our clothing on the way out of the door here. I mean, here we have got 1992. We have had an $84.5 billion deficit in the balance of trade. In 1993, $120.8 billion in the deficit in the balance of trade. And in 1994, that amount is growing by 12 percent. And there is no education in the second kick of a mule.

We have heard this before and we wonder about these glorious things that are going to happen, knowing in the real world that we have got a very, very high standard of living with a tremendous number of requirements on American production.

We, the politicians, we say you have got to have a minimum wage. Well, we are competing with a lot that have never heard of that. We say, you have got to have clean air, clean water, social security, health care, plant closing notice, parental leave—you just go right on down the list. Since I have been in the business, I have had manufacturers tell me that we have attracted—like Cummings here from Stuttgart. And they called you Governor, still Governor. You did everything. We love South Carolina. We hate to leave, but our competitor has gone to Mexico to stay ahead of the curve. We have got to move.

And, incidentally, we heard each other on NAFTA, and 13 industries now have left South Carolina, and all of these wonderful reports about NAFTA's increase in trade. We have just gotten a report that the majority of that is intrafirm trade.

In other words, they are sending the parts down, they are packaging the parts into the finished article, and sending it back. And all these jerk-leg economists are running around saying, "Whoopee, we told you so, we have got an increase in trade." We have got an increase in going out of business.

So, what is your comment about that because that worries this Senator.

Ambassador KANTOR. Mr. Chairman, we have had a number of interesting conversations on this. And I obviously, as you know, respect your position. We do not agree on it.

It is interesting to note, No. 1, our trade balance was down in the first quarter with the world; that we increased exports to Mexico in the first quarter by 16 percent; that we had a $90 million trade surplus with Mexico in the fourth quarter of 1993, and it grew to $560 million in the first quarter of 1994 as NAFTA went in.

The CHAIRMAN. More parts.

Ambassador KANTOR. We sold 19,000 cars made by American workers into Mexico in the first 5 months of 1994 as compared to all of 1993 was about 9,000 automobiles.

But this is not about the NAFTA, although the NAFTA I think is an interesting precursor to an agreement that has even more positive economic impact on the United States than NAFTA will have.

Frankly, Mr. Chairman, what has happened is as our trade imbalance has gone down we have increased employment in the last 17 months in this country by over 3 million people.

I would make one general comment—96 percent of all the consumers in the world live outside the United States of America. As we become more globalized, interdependent, and technologically proficient, and as industrialization spreads around the world, and as middle classes grow, they are our markets of the future in order to grow good, sound, high-wage, high-skill jobs in this country.

Agreements like the Uruguay Round, which brings everyone under the same tent and taking on the same obligations to level the playing field, which you have long advocated—you have long advocated that principle, which I agree with you, are enormously important if we are going to take advantage of the most productive workers in the world which are now U.S. workers.

So, as we look at this 96 percent in these growing markets, and a growing middle class in Latin America and in Asia, we need to set standards that we can live with that level the playing field and everyone takes on the same responsibilities.

That is exactly what has been done in the Uruguay Round. And we have been able to do it—three administrations. I have not fallen yet into this Washington sickness that you take credit for everything that has been done, whether you had anything to do with it or not.

Frankly, three administrations have done strong work in making sure we protected U.S. businesses and U.S. workers and U.S. sovereignty, while having others undertake similar or comparable responsibilities to us and other industrialized nations, while we try to take advantage of a growing middle class in these growing markets in these other areas of the world. It is critical—critical to our future and to the future of our people that we do so.

The CHAIRMAN. Well, you said in the first part of that, as we became technologically and otherwise proficient, and then you finally acknowledged that we had the most productive worker, and that is the point. We already are technologically proficient, and yes, the majority of the population is outside of the United States.

We are going out of business. We are losing jobs. You talk about creating jobs, make-work jobs and otherwise. All these exports—I was waiting for you to get on the exports because a far majority of all exports, or 80 percent of it, is taken care of by 2,500 firms, and they keep laying off people. The biggest one we have got is Boeing. They are into the export business—a wonderful company. They have just fired 2,300.

So, I look when you say that you have strengthened dumping, and I look at the paper this week in the Journal of Commerce, and it is headlined, "steel importers warn legislation could scrap gains from GATT." Now, the lawyer for the steel industry says, and I quote, "the key to the GATT for steel importers is that GATT weakens the ability of domestic mills to use antidumping laws to restrict imports."

And they quote the chief attorney, Mr. Armstead, who said that in most instances, "the GATT agreement would significantly weaken antidumping provisions." But he said, "do not consider the bat-

tle won, because many of the gains in GATT, namely the weakening, could be jettisoned by implementing legislation."

I hope the Finance Committee, Senator Packwood, and others, will jettison it because—go right to your 301. You read 102(a), and I remember you said no provision of GATT that is inconsistent shall have effect, and none of the provisions should amend the law. But you do not mention who is the supreme court to decide that. And the supreme court, once we agree, is no longer the Congress which under the Constitution it is supposed to be, it is the World Trade Organization.

So, we sit here on our own petard saying, "No, we have not changed any law but they have got the sanctions. They are going against 301." And, in fact, the incentive would be to go ahead and tweak the U.S. nose irrespective. I practiced customs law. Do not worry about the law, worry about the environment that you are in.

And they have got a totally different environment with respect, let us say, to financial services. They are not about to come in and start this periodic, quarterly stock gains approach to financial services. They enter the long range. They are working and they are growing. Japan is richer than you and me.

And we act as if we are in charge and that we have strengthened the laws. And since you write it down and say that it has not changed any law, it has not changed any law when you are not in charge. WTO is in charge. They are the ones to decide whether or not it is a violation of GATT and sanctions are in order.

And they will put in the sanctions and we will be appealing. And do you know who we will appeal to? Not Ambassador Kantor, who said it did not change any law. We will be appealing to Geneva. And some crowd that is out there, nice people, I have met with them, but that is where you are. You are in the hands of the Philistines.

What is your response to that?

Ambassador KANTOR. I am not sure who the Philistines are in this case. It may be us.

Let me give you the history. I think if the past is prolog as some facade as we go down Pennsylvania Avenue says so profoundly, we have brought 31 cases in the GATT in the last 47 years. We have brought more than any other country in the world. We have won over 90 percent. We won 28 of the 31.

All in all, there have been 53 cases where the United States has been involved. We have won over 70 percent of those cases.

The fact is that the dispute settlement mechanism under the GATT operated in favor of the United States, the largest trading nation in the world. And it was the Congress of the United States in the 1988 Trade Act, frustrated by the European Union especially, and others, blocking rulings that favor the United States which instructed U.S. negotiators in the three administrations to come back with a dispute settlement understanding that did the following:

One, it got rid of blocking. Then, No. 2, it had strict time limits. No. 3, you had a right of appeal that would not go on forever. No. 4, it allowed for cross retaliation.

Frankly, Mr. Chairman, with hopefully not too much ego involved, I will try to hold it in check, we came back with all of that. We came back with what the Congress asked us to come back with.

It is in the best interest of the United States. And let me add to that.

I mention this only briefly. Section 301, since 1979, has required the United States to go to the GATT when the item being investigated under 301 is a GATT-covered item in a GATT-covered country. We have done that. We have followed that dictate, obviously. It is U.S. law and continues to be U.S. law.

What this agreement does in the dispute settlement understanding, which does not allow for blocking, which allows for cross retaliation, which protects intellectual property rights, which protects agriculture, which in fact gets rid of a lot of nontariff barriers in the industrial sector, it allows us to use 301 with an effective dispute settlement mechanism and makes us even more effective in using our own trade laws.

What it also does, interestingly enough, in those areas not covered by the GATT, or countries which are not members, such as China and others, we can use our 301 and all our other trade laws unilaterally.

So, the fact is, Mr. Chairman, we have been able to preserve our laws, make them more effective and be able to use them unilaterally in appropriate cases, just as we always have been able to do.

The CHAIRMAN. Well, I want to yield here momentarily to Senator Pressler, who has got other commitments. But let me include just by reference the Minnesota Journal of Global Trade, with respect to an article last year. It is a statistical profile of GATT dispute settlement. Just one or two sentences:

> The United States, by contrast, has experienced a large increase in its role as defender. United States appearances as defendant increased from a total of five in the sixties and seventies to 38 in the 1980's alone—in percentage terms, from 9 percent to 32 percent. In effect, the United States has become the primary victim of its own campaign to strengthen the dispute settlement system.

Senator Pressler.

Ambassador KANTOR. Mr. Chairman, if I could, for the record.

The CHAIRMAN. Excuse me. Yes, sir.

Ambassador KANTOR. I apologize.

Our records I think are fairly complete here. There have only been 22 cases ever brought against the United States in the GATT.

The CHAIRMAN. Well, this is a study. We will see the accuracy of either one.

Ambassador KANTOR. I am sure they are very professional people who did that study, but we have carefully checked our records because this is something, of course, of some concern to the Congress, which it should be, and to the administration.

The CHAIRMAN. Well, we checked one too. We put in the Marine Mammal Protection Act. We got together with the San Diego fisheries there for tuna. It is a wonderful crowd really of Portuguese descent. I have met with them and talked with them. We worked it out. They adhered to it. And once we had worked it out and our U.S. fishermen were complying with the Marine Mammal Protection Act, in comes all of this violative kind of tuna in through Mexico.

So, we put in an embargo on the Mexico violations and they went to GATT and they found that that was a restraint of trade, the United States trying to enforce its own Marine Mammal Protection Act. We do not talk about fails, we talk about facts.

Senator Pressler.

Senator PRESSLER. Thank you.

First of all, let me ask you about the issue of the telecommunications issues that I raised, the long-distance rates, wherein the wealthy European countries get about $411 million in subsidies from us per year. Second, the way they subsidize their manufacturers compared to ours. And, third, the investment rules are totally different.

Now, I know that this is not directly under GATT as it currently is written, but it is a big trade issue. Congress might consider the adoption of GATT of a telecommunications trade and services agreement as a condition for implementation of the GATT agreement. Would you deal with that subject? Should we try for a trade and services agreement as a condition for the GATT implementation? Or are we going to take care of these really big losses Americans are paying the very wealthy countries in Europe for no reason other than we do not have an agreement and nobody is paying much attention to it?

Ambassador KANTOR. First of all, you have raised a serious question that concerns us. And I think we have the same position on this. We are currently in Uruguay Round negotiations on telecommunications. We could not reach an agreement we would support prior to December 15.

As you know, when we came into office—6 days after we were in office, we sanctioned the European Union under their procurement directive for prohibiting U.S. companies to make sales in telecommunications as well as heavy electrical equipment in Europe. That was under their so-called procurement directive.

Those sanctions in telecommunications remain. We were able to reach an agreement in heavy electrical equipment and open that market for the first time since literally the Marshall Plan.

In telecommunications, we continued the sanctions against the European Union for failing to open up their telecommunications area. However, let me quickly say, Germany has agreed to withdraw from the procurement directive and to enter into an understanding with the United States that they will in fact open their telecommunications market in services and equipment.

I am going to get to your question and charges; I think it is a critical question, Senator.

Spain, Portugal, and Greece have not applied and will not apply at least until 1997 if we do not have an agreement—they will then or they can—the telecommunications prohibitions under the procurement directive.

So, one, we have sanctioned Europe in this regard. So, we have taken action in that regard.

No. 2, part of the negotiations under the telecommunications section of the Uruguay Round—we are currently engaged with the European Union and others. It involves telephone charges. As you correctly point out, it is the reason, frankly, we have a deficit. Without that, we would not.

You are absolutely correct that it is unfair. It is unreasonable. And it is part of what we are trying to straighten out at this point.

So, you have made the proper—if I might say—the proper point. We agree with you. We have also taken action in the services and equipment section of the European procurement directive.

Third, most European telecommunications companies, as you know—unlike U.S. companies—are government owned. Therefore, of course, they have some advantages over our companies. But I have got to say, in third country markets, we are doing much better than they are doing—whether it is in Mexico or in the rest of Latin America or in Asia.

So, while we are trying to open up the European market as it would be fair and reasonable, as our market is open, frankly, to their companies, we are doing quite well in other markets. And we will continue to pursue a policy of negotiating this agreement.

Senator PRESSLER. But under this GATT agreement, for example, the long-distance accounting rates, the subsidies we are paying them will not be changed, will they?

Ambassador KANTOR. We are in the middle of negotiations now, Senator.

Senator PRESSLER. That is separate from this GATT agreement; is that correct?

Ambassador KANTOR. Well, it is under the Uruguay Round. The Uruguay Round continues even though, as you know, the fact is that none of this is locked in concrete. You will continue to have continuing negotiations, as we did for 47 years under the GATT.

Senator PRESSLER. But voting for or against this agreement will have very little—implementing this agreement will have very little effect on that? If we did not implement this agreement, those talks would go on?

Ambassador KANTOR. Well, if we did not implement the agreement, I think we would have major problems far beyond these talks, Senator. It would have an adverse effect upon our economy.

Senator PRESSLER. What would your reaction be to a trade and services agreement as a condition for the implementation of the GATT agreement?

Ambassador KANTOR. Well, we would be here another 7½ years possibly waiting.

You know, it is interesting. Since the December 15 agreement, there has been a good psychological effect in Europe and Japan. Their economies have begun to grow, which is helpful, frankly, to our exports. That is one of the reasons, especially in Europe, we have begun to lower our trade deficit.

I would think it would be, in effect, shooting ourselves in the foot not to go ahead with the Uruguay Round at this point.

Senator PRESSLER. The logic seems to be, on the long-distance rates or the long-distance subsidy, that we are talking about this and it is separate; go ahead and implement the GATT agreement. Trust us. But nothing is happening. Nothing has happened. On the long-distance subsidy, there is really very little hope of Europe backing down, because we just let them do it.

Ambassador KANTOR. All I can say, Senator, is I know these are difficult subjects. And of course we are dealing with another sovereign power. We cannot force them to agree.

On the other hand, I believe that we have the wherewithal and the commitment to finish these negotiations in a way that they would be in the best interest of our telecommunications companies and in the best interest of our consumers.

Senator PRESSLER. But your logic is that if we pass the implementing legislation, they will like us better; and therefore they will be more friendly?

Ambassador KANTOR. No. I think that maybe my reputation is not that I trust in people to like us better. We have probably taken more trade actions in the last year and have had more effect in Japan or Europe than other administrations.

I think the European Community understands that we are prepared to act in the best interest of our consumers and our telecommunications companies if in fact these negotiations are not successful.

Senator PRESSLER. Would you give a timetable? If we pass the implementing legislation on GATT, would you give a timetable as to how soon the imbalance in the telephone long-distance outpayments will continue?

Ambassador KANTOR. Well, these negotiations are supposed to go on—the timetable had been the end of this year.

Senator PRESSLER. So, you expect at the end of this year that subsidy will end?

Ambassador KANTOR. I said we expected the negotiation to go on. Whether or not it ends is a matter of our negotiations. And then, of course, if it does not, we would have to take action.

Senator PRESSLER. What kind of action could we take?

Ambassador KANTOR. We could take action in various areas, including under the new Uruguay Round for discrimination against U.S. consumers.

Senator PRESSLER. But would it not be better to have a trade and services agreement as a condition for the implementation of the GATT agreement? Then we could get some action by the end of the year.

Ambassador KANTOR. We do cover services under the Round, but in certain areas—we took derogations because we did not—take financial services, Senator. Secretary Bentsen was extremely adamant and correct about our not allowing for free riders in this area. So, we would not agree to the provisions that the Europeans wanted to go ahead with the financial services agreement, which would allow all to participate in each other's economies without taking on the same responsibilities.

The fact is, we are still negotiating those agreements. We may or may not reach them by the end of the year. However, if we do not, we have other actions we can take under U.S. trade laws in order to open up other's economies.

Senator PRESSLER. Fine. I will pursue that with you privately.

Let me ask in one more area, and that is agricultural trade. Now, as you pointed out, our past two farm bills have reduced our agricultural subsidies. During the past 10 years, we have met the 20-percent requirement. Now we are told that under this new GATT agreement now, Europe is going to begin to do that, but they have not done it. This is just smoke and mirrors. France is not

going to change their agricultural subsidies. Germany is not going to.

They will redefine subsidies and shuffle their feet around, but I really do not see any hope that they are actually going to significantly reduce agriculture subsidies in the near future. Do you actually believe they are going to reduce their real subsidies to agriculture?

Ambassador KANTOR. Well, if they do not, we have the right to use dispute settlement procedures and take action against them, and to retaliate, frankly. This agreement that we have reached, one, reducing internal supports over 6 years by 20 percent, export subsidies over 6 years by 21 percent by volume and 36 percent by amount, or in dollar figures, is in the best interest of the U.S. farmers, who are the most productive and competitive in the world.

Under the Blair House agreement, which we renegotiated, we will send another 8 million tons of grain to the world in addition to what we already would have sent under the original Blair House understanding.

Frankly, what has happened here is, at the end of this 6 years, we will be able to subsidize more by volume and by amount than the European Community.

Senator PRESSLER. My final question concerns the World Trade Organization. Let us say that on the telephone subsidy, a Third World country disputes subsidies on telephone calls from the United States.

In fact, one small country has free telephone service in the country and operates on subsidies made from U.S. calls, which is quite an ingenious idea. But, in any event, let us say that we get into a dispute with the Third World over long-distance call subsidies, and there is very little sympathy for us because we are a big, rich country. And the dispute cannot be resolved. It goes into the World Trade Organization, the 117-nation body for dispute settlement.

Do you really think that we can win on something like telephone services, where people have very little sympathy for us? Do you really believe that the 117-nation World Trade Organization is going to vote with the big, rich United States?

Do you really think we can get justice in that 117-nation World Trade Organization?

Ambassador KANTOR. First of all, you do not vote on dispute settlement, Senator. It is done by panels. That is No. 1.

Senator PRESSLER. That is in the initial stages.

Ambassador KANTOR. No.

Senator PRESSLER. If something really comes down to it, and a dispute cannot be resolved, will it not be voted on by 117 nations?

Ambassador KANTOR. No, it does not. No, I am sorry, it does not. Then it is appealed to the GATT. The fact is that the only way it can be overturned is by consensus. You know, it operates by consensus. That is one of the ways we protect, of course, our sovereignty. And the fact is you cannot overturn a dispute settlement panel understanding except by consensus. And the fact is—at least the implementation of it.

Senator, it is interesting—and I can only go back to what has happened in the past—we have no—I am not a soothsayer—I do not know what is going to happen in the future—but we have won

90 percent of the cases we have brought. That is hardly discrimination against the United States.

Senator PRESSLER. But however it is done, procedurally or otherwise—they may not vote or whatever—but the setting up of these dispute panels—the United States likely will not get much sympathy when we are just 1 vote out of 117; are we?

Ambassador KANTOR. Well, whether it is amendments, whether it is waivers, whether it is nonapplication, whether it is dispute settlement, the fact is, one, it operates by consensus under article IX. No, I repeat, no substantive responsibility or obligation of the United States of America can be changed without prior permission, nor any other country, frankly, for that matter.

No. 3, the GATT today operates by majority vote. We have been operating like that for 47 years. However, by practice, it has always operated by consensus. The fact is that that is not written anywhere. We have finally written it in to article IX. We now have supervoting majorities on procedural issues, and on substantive issues, you cannot apply any substantive change to anyone's rights or responsibilities unless they agree to it.

So, the fact is, Senator, this is a contract organization in an executive agreement, and only the Congress of the United States—only the Congress—can implement this agreement by law. Not the Supreme Court. Not the administration. Not any bureaucrats in Geneva. Only the Congress can do that.

Senator PRESSLER. If I am still around here 5 years from now, I hope I am able to play back a tape of what you just said and say, "He was right." But I am skeptical.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Packwood.

Senator PACKWOOD. Mr. Ambassador, I am always intrigued by those who think we cannot compete and we lose jobs because of trade. Yesterday, Mr. Barnett, the president of Bethlehem Steel, was testifying before the Finance Committee. He indicated their employment in 10 years, from 1980 to 1990, has gone from 80,000 to 20,000, and they are still producing the same amount of steel they produced 10 years ago.

That is tremendous capital investment and productivity, and he says they can remain competitive in the world. They have objections on subsidies, and you know their arguments, but he is not afraid now of going toe-to-toe with the world, given a level playing field. We should brag on that. We should not say we have lost 60,000 jobs in the steel industry. We ought to brag on it.

At the turn of the century we had one person in two involved in farming. Now we have about 2 out of 100, and we count that as progress, and we can compete with anybody in the world with those 2 people out of 100, and so I do not know why we regard reductions in employment as a step backward. We ought to regard it as a step forward.

Now, second, why do we have this trade deficit? I have not checked the figures in the last year and one-quarter, but as of 2 years ago, if you separated out two items, oil and cars, our balance of trade was about even. Cars, as the chairman said, are our own fault. We threw it away. I was here when we did the mileage standards. I remember the auto industry testifying Americans do

not want those kind of cars. "Only funny looking people drive those funny looking Volkswagens"—I can remember that quote—when the beatles were the only small car on the road, and the Japanese took the market from us, justifiably. We did not think anybody wanted it.

Oil was our own fault also, certainly energy is our own fault. Every time we think we can find oil some place, we pass some law prohibiting or even looking for it, but certainly in terms of energy this Nation is a cornucopia of energy. We have got a 400-year supply of coal, we have got a 200-year supply of oil shale, and if you look at North America, there is no reason why North America should have to import any energy, counting Mexico and Canada's reserves and our capital formation.

You look at electric energy, France made the decision 30 years ago to go all nuclear. By the end of this century they will produce all of their electric energy from nuclear means. We have not built a plant in 15 years, have not started a plant in 15 years, and so when we say we cannot compete, we have shot ourselves in the left foot, cars, and in the right foot, energy, by our own decisions.

Now, are we going to have to give up on some industries? Sure. If we are going to sell high and technological equipment, nations will have to have some money to buy something from us.

Japan understood this, and they can be used as an example from time to time—30 years ago, Japan was in the top 10 nations in this world on apparel exports. Today, I doubt if they are in the top 50. As you go through the racks looking at clothing, made in Singapore, made in Malaysia, made in Hong Kong, made in Brazil, made in Bangladesh, you cannot find anything made in Japan. They got out of the apparel export market years ago.

Now, textiles, textiles is competitive in capital. Apparel, a lot of handwork. They got out of the aluminum business 15 years ago because it is too energy consuming. Japan is energy short. They have not got any oil, they have not got any gas, they barely had hydro, so they got out of the aluminum business and said we will let somebody else do it. We cannot justify being in it.

We are going to have to make decisions like that, but can we compete? If the problems were wages, why, Bangladesh would be the industrial platform of the world.

Now, a question. We are very competitive in high and telecommunications equipment. I do not mean the telephone that hangs on the wall, I mean high-end telecommunications equipment.

We have an immense surplus in our balance of trade in that kind of equipment, and yet in the telecommunications bill we are considering in this committee, we are going to put in a domestic content provision that all but directs our telephone companies to buy that equipment domestically or have the bulk of the components made domestically.

How on earth can you go around the world attempting to negotiate agreements when one of the things that we do very well in worldwide, we are going to say, "Ah, but in terms of selling to us, we are putting up barriers"?

Ambassador KANTOR. I think that you can square that circle by indicating in the bill, frankly, that you are talking about—and I have some familiarity with that, as you know, Senator—that the

provision would be effective except where it was inconsistent with our international obligations, and I think that can be handled.

Senator PACKWOOD. As determined, though, by who?

Ambassador KANTOR. Well, I think we would leave that a little bit ambiguous at this point. I think it can be determined either up here or in a combination with the administration.

The fact is that we win when markets are open. We win clear. Statistics are just—are irrefutable in this area.

Senator PACKWOOD. But Mr. Ambassador—and I was going to call you Mr. Philistine. There was a time when Philistines were well-regarded. Do not give up on them too easily. Everybody has a comeback.

My problem is the deal I think the administration has made with the House on the domestic content provision. Does it violate our international agreements? I think clearly it does, and the administration can therefore say, if it violates our international agreements it will not be effective anyway. But if the deal that we made—and I should not say we, because I did not make it. I am not sure you made it.

If the deal is that that violation would be determined by the United States court system, that can be years and years of litigation item by item by item, and what I want to know is, has the agreement been struck between the administration and the House on the domestic content provision in the telecommunications bill that it will be the courts that will make that determination?

Ambassador KANTOR. No. No, sir, it has not.

Senator PACKWOOD. Good. I have no more questions, Mr. Chairman.

The CHAIRMAN. Very good. Senator Bryan.

Senator BRYAN. Thank you, Mr. Chairman. As I observed at the outset, Ambassador Kantor, I think there is much in this that is to be commended, but I do continue to have ambivalence about this enforcement mechanism. Let me seek clarification of some points here.

It is conceded, is it not, that under the current practice, although it may not be spelled out specifically, the practical effect is to give any country who objects to a sanction being imposed upon it a de facto veto power. That would be a correct statement; would it not?

Ambassador KANTOR. The practice of blocking is allowed under the current GATT arrangement.

Senator BRYAN. And it is equally clear under this new negotiated GATT that that would no longer be the case.

Ambassador KANTOR. That is clearly the case; yes, sir.

Senator BRYAN. And under this new system, in effect, if the WTO made a determination adverse to a country, then there would be two means in which that country could correct that situation.

No. 1, the country could change its law if it chose to do so, and if it did not choose to do so, then the WTO would have the ability to assess what the damage is—that is, what the financial impact of the trade discrimination was—and authorize that country to take a retaliatory measure; am I correct on that?

Ambassador KANTOR. A country could retaliate or bring trade sanctions up to the level of the damages. Those could be challenged—I am just correcting only slightly. Those could be chal-

lenged, then, by the recipient country in the same panel, so the country with the positive ruling, if you want to put it that way, could retaliate if the country affected did not want to change its laws or regulations, which it has full authority and sovereignty not to have to do.

But then, of course, if the sanctions brought are a retaliation greater than the damage, the country or defendant in question could then go back to the panel and challenge that.

However, there is a No. 3, if I might just add. What happens in the real world is negotiations occur after these rulings, and frequently what happens is the two parties in question will reach a negotiated settlement to the situation. That really is a third item that is in the real world of trade.

Senator BRYAN. But that obviously would require mutual consent. There would have to be agreement to resolve it in that fashion.

Assuming, for the sake of argument and not to be contentious with you, that this was an intractable situation, there could not be agreement, in effect, the bottom line would be, the country who brought the action against the offending party would be authorized to retaliate against that country in the amount of damages as calculated, to be determined by the WTO, the impact of the discriminatory trade practice.

Ambassador KANTOR. As they could today.

Senator BRYAN. But today, of course, there is a de facto veto, so let us just assume, not to prolong this, that a calculation was made, that in the case of the automobile industry let us assume for the sake of argument—and I know that you believe that we are going to prevail on that, and I hope you are right, but let us assume under the new GATT protocol that there was a calculation made that the impact was $1 billion, hypothetically, just to round it off. How is the country or the sector of the trade relationship determined that would bear that burden?

In other words, under this hypothetical, suppose the European Union prevailed, that CAFE impact was $1 billion. They would then have a right to retaliate against us for $1 billion. Is it sector confined, or could they choose any part of the bilateral relationship, United States and European Union, to in effect increase tariffs, or to impose that $1 billion sanction?

Ambassador KANTOR. Well, first of all, Senator, as you know—I know you picked $1 billion. It is an interesting number, but of course we are not talking about anything near that even at worst case scenario.

No. 2 is, as you correctly point out, and I appreciate that, we do not believe we are going to lose that case, and it is currently under review by a panel.

No. 3, yes, you could even cross retaliate, if there was not enough trade in the sector to cover whatever the supposed damages were.

Senator BRYAN. But initially, Mr. Ambassador, you are confined to the sector. Let us reduce it.

Ambassador KANTOR. Initially you are confined to the sector, yes, but then you can cross retaliate, which we promoted, because where we have such an advantage in intellectual industries, which rely on intellectual property, and most nations do not, yet they are

engaged in activities which of course would be violative of international rules and in fact are adversely affecting us, we wanted the right to go after other exports of those nations to the United States in order to be able to effectively enforce our intellectual property rights.

Senator BRYAN. I guess what I find troublesome about this is that although I have been a strong advocate of CAFE, I recognize that it has imposed some cost upon American industry. The American automobile industry does bear some expense. Assuming we lost, and neither one of us is prepared to concede that, I think all of us are hopeful that we will prevail.

It just seems singularly unfair that an industry which has been burdened with an expense, because we believe that there is a prevailing public policy—clean air, reduced foreign oil dependency—in effect would bear that burden. Give me some comfort, if you can, in terms of why that should not be a legitimate concern.

Ambassador KANTOR. Well, first of all——

Senator BRYAN. I am not denigrating your ability to represent us, Mr. Ambassador. I know you are going to be a great advocate for us, but assuming that happens, and we have to assume that some cases are lost, maybe, when they ought not to be.

Ambassador KANTOR. Well, I want to go back—it is fascinating no matter how many times you say it. I know you are not ignoring it.

When you win 90 percent of the time, or 70 percent overall, and you believe that these laws—and I believe they are—have been not only passed by the Congress but administered in a neutral fashion, and that we are providing full national treatment and appropriate national treatment to all countries, whether or not because a certain area might produce cars that fit into the category because of their own decisions should not, of course, invalidate the laws in terms of international standards of GATT rules. That is our position.

Senator BRYAN. And I agree with that, by the way. I am just trying to say that we have to, I think, acknowledge that it is possible that we could lose, and if we do, you have explained what the consequences are, and I guess even though there is nothing under 102A of the implementing legislation that would require us to change the law, it does seem to me that the American automobile industry would have a pretty powerful argument to address to the Congress to say, "Look, we have gone along with these rules. In 20 years we have doubled fuel economy to 27½ miles per gallon."

A number of us would like to see that go further, and the administration, to its credit, as you know, is working with the industry to triple that fuel economy now.

If we should implement that new agreement, if one can indeed be entered into between the United States and its auto producers, and we faced a similar challenge, for the industry that was in effect bearing the financial burden of that to itself be the object of retaliation I suspect is going to put enormous pressure on the Congress to say, hey, none of intended that consequence. That concerns me. Respond, if you will, to that.

Ambassador KANTOR. You could pick any one of 70 or 80 cases that have been brought under GATT either by the United States

or where we have been in effect the defendant, if you want to use that terminology, and say what would have happened if. The fact is, it has not happened. The alternative is unthinkable.

When you are the largest trading nation in the world, when we have 10 million Americans who are directly employed in exports in this country today, directly—and I am not talking about indirectly, but directly—when it has been a large part of our gross product growth over the past 5 years, it would be not in our interests to have no dispute settlement mechanism, no international rules, no way to open markets of these other nations where 96 percent of all the consumers reside.

Now, if you look at the laws, you are talking about CAFE or the gas guzzler tax and so on, the three that have been challenged, our laws are neutral. The disproportionate impact that has been argued by the European Union is not enough to establish a claim under GATT article III. It is just not. The lack of discriminatory intent is clear in this case.

The only people disproportionately impacted are the European Community, and in fact we are supplying new information that shows that disproportionate impact, given their own decision, has been lessened over the past year, so we have gone back just in the last 48 hours to this panel and said, you have got to look at this new information.

The fact is, Senator, you could speculate about a number of situations that could become a parade of horribles, but we have profited by the GATT. It has spurred growth around the world. It is creating—frankly, trade is creating a middle class growth in Latin America and Asia that is truly phenomenal, and they are becoming our markets of the future.

If you go back to what Senator Packwood said, as we become more technologically proficient and more interdependent, obviously we need markets to grow jobs, new markets. Those markets are not here in the United States. We are a mature economy. Our birth rate is such, and our ability to expand is such, we have got to go somewhere else if we are going to find those new markets.

A dispute settlement mechanism which is in our interest is something we should support, not oppose.

Senator BRYAN. You plead a good case and I am glad you are on our side. Let me just ask in terms of the WTO, in terms of its constitution, tell me, in effect, what do we have? What kind of a panel is structured under the new GATT protocol? Is every country in the world that is a signator to GATT automatically on that panel?

Ambassador KANTOR. No.

Senator BRYAN. Describe for me, if you will, the mechanism.

Ambassador KANTOR. There is a procedure where they set up panels of experts, and from that they are chosen, frankly, in a fair and reasonable way, and then they sit on these panels and take the evidence and review the briefs filed by these countries.

Let me mention one thing that I think is extremely important, which I think there would be great support for, I think, in this committee. One of the things that has bothered us the most—it certainly bothered this trade representative and I think bothered my predecessors, is the lack of transparency in GATT panel proceedings, the failure to make briefs public, not allowing these proceed-

ings to be held in public, not allowing nongovernmental organizations to participate under proper circumstances.

We are trying to change that. We have been very aggressive in pursuing that. Frankly, by doing that I think two things would happen. One, I think we would have decisions that would probably be more to our liking, just because they would be in the sunshine. And, second, I think it would build credibility, which would be important for these panels and for these multilateral trade rules.

Senator BRYAN. I do not want to abuse my time, but the panels themselves, are they—in effect, do they serve the role as a master, as a factfinder, or do they also decide as well as determining the facts?

Ambassador KANTOR. They make decisions in the form of recommendations. That goes to the GATT Council, and then the GATT Council only has, under this understanding, a limited amount of time to make a decision on the particular issue.

Senator BRYAN. In theory—again, not to prolong this. In theory, could the GATT Council reject the findings of the panel?

Ambassador KANTOR. Yes, they could. It is like a court of appeals, in effect, in our system.

Senator BRYAN. And the council itself, is that, again, comprised of the entire membership?

Ambassador KANTOR. That does comprise of the entire membership. Yes it is, sir.

Senator BRYAN. I thank you, Mr. Ambassador.

Ambassador KANTOR. Thank you.

Senator BRYAN. Thank you, Mr. Chairman. I apologize for prolonging this.

The CHAIRMAN. Senator Kerry.

Senator KERRY. Mr. Chairman, thank you very much.

Mr. Ambassador, thank you for being here. This agreement, as you can tell from many of the questions raised, still troubles some, and I guess it is fair to say it still troubles me in certain aspects. I would like to be able to vote for an international agreement setting the rules, if you will, and providing the best opportunity to level the playing field. And clearly the administration's efforts to define foreign policy in the context of economic policy is real in terms of where we are. All of the industrial nations are obviously going through enormous change.

You seem to be making some assessments about our prospects for favorable resolution based on the world that we have lived in, not necessarily in the world we are about to live in or really are on the threshold of, so I am a little apprehensive. When you cite a series of rulings in our favor under the prior regimen of GATT where, I might add, one nation had the opportunity to stop it from being implemented, it is different from what you may find, given the exigencies of the marketplace today.

Japan, for the first time, is entertaining significant unemployment and is actually moving significant manufacturing offshore. They are, like everybody else, chasing the lowest unit cost of production. And the new globalization in technology that we face is forcing all mature industrial countries to look for lowest unit costs one way or the other.

Now, many of these countries to which they are going have no environmental laws, no zoning requirements, no workman's compensation, no liability insurance, none of the restraints that we have placed on ourselves as we have tried to reach sort of a higher standard of quality of life, if you will. My fear is—and I express it only as a fear, not yet as a stated opposition to this, pending the implementing legislation—is that the exigencies of the marketplace may force WTO resolution in ways that cannot be judged on the basis of decisions made heretofore.

And I think the fears expressed by Senator Bryan about the CAFE standards are very real. Carla Hills predicted with great certainty and optimism that the Marine Mammal Protection Act was going to turn out alright, and that would be adhered to. It has not, now reaffirmed. The CAFE standards, I would say, are probably more problematical than the MMPA, if you look at the record, particularly the congressional record of the choices between the luxury tax and the over $32,000 tax and the gas-guzzler tax, and rationale on placing it on import cars versus domestic poses some judgmental problems here.

Now, my concern here, Mr. Ambassador, is that you have a very different dispute resolution mechanism here, as Senator Bryan has been discussing. I mean in GATT you had a panel, and the panel made an observation and the observation could not be adopted by one member objecting unless there was consensus. Here we have binding—in a sense, binding resolution.

Now, I am convinced that the world needs to move toward some kind of firm dispute resolution. I understand why the Canadians and Europeans wanted to move in that direction. If you look back at our own trade history, you have years in which inbetween Pennsylvania and Massachusetts and Southern States we had all kinds of different trading rules, and it was only by virtue of the Supreme Court, ultimately, arbitrating, that we were able to pressure and work out the differences.

And so we know we need a dispute resolution. My fear is that there is the capacity in this agreement to bind us in ways that harmonize down, that force us to harmonize down, that will bow to these pressures that I have just described between nations looking for the lowest unit cost of production and the exigencies of the competitive—of the marketplace, so as to provide us with the kind of challenge we are now seeing on MMPA, Marine Mammal Protection, and potentially on CAFE standards and potentially beyond that.

Now, I want to talk about this a little bit, and I have some specific questions along this line, but let me just give you sort of a view very quickly, if I can. First of all, the environment committee that was set up cannot even set an agenda, so I am very reluctant to believe that this standing committee of the WTO is somehow going to help resolve some of these unresolved disputes.

Many of us had hoped that this administration was going to stand a stronger line with respect to the greening of GATT, and, in point of fact, NAFTA has stronger provisions with respect to openness and dispute resolution in favor of the environment than we are about to conceivably submit ourselves to under this agreement.

Process and production methods, we do not know for sure whether or not that fits in a way that will protect our interests in the same way as it does in NAFTA. You have alluded to the public participation part of it before the GLOBE when you were kind enough to appear. You even called it sort of star-chamber tactics. Some of us are going to have a hard time understanding why we should submit the potential harmonizing down to star-chamber tactics, and I would hope the implementing legislation is going to conceivably address that issue.

And so I would like to ask you, first of all, if you would just generally respond to this, and then I would like to move to some specific questions about it.

Ambassador KANTOR. I would be delighted. There is, in fact, a requirement that we harmonize up, not harmonize down. Countries, including the United States, are allowed to maintain stricter standards than international standards in the human, animal, or plant life or health area against risk, all of those areas. This is explicitly recognized in the Uruguay Round. It is not recognized, as you know, under the current GATT.

What is fascinating about the approach—and I know you are just trying to draw me out, Senator. The question is not whether we want a perfect world, but is this better than the world we have today? If you just start and look at the procedures of the comparison on the GATT and the WTO in terms of negotiation and new agreements of voting rights or changes in decisionmaking or dispute settlement or amendments to procedures or waivers of nonapplication, we are more protected or the same in every instance. And I say that without fear of contradiction. Our sovereignty and our rights to act are more protected.

Two, this is much more protective of our environmental concerns than the current GATT. Let me just mention a few things. The Uruguay Round explicitly recognizes the right of each country to protect human, animal, and plant life and health against risk from animal and plant pests and diseases and food additives and contaminants, and to choose a level of health safety and environmental protection it considers appropriate and conduct assessments of risk to ensure that those levels are achieved.

At the same time it protects against unjustified sanitary and phytosanitary measures becoming protectionist. It requires more open public notice and comment in these areas and creates a trade and environment committee. We have gone many steps beyond where the GATT is today in all of these areas.

Now, did we achieve everything we might have wanted initially? Of course not. Does this go as far as even the NAFTA goes in terms of protecting environmental laws and harmonizing up standards? No, not as far. But for a multilateral trade agreement, it has gone way beyond where we have ever been in history. And the fact is we are better off under this agreement than under the current GATT.

The MMPA, of course, has been raised under the current GATT procedure. The fact is the new ruling, which now has to go before a GATT Council and has not been approved, and which we are challenging, as you know, both on the substantive and procedural basis—the new ruling, for the first time, recognizes the right of a

country to operate extrajurisdictionally. That is, frankly, a critical departure from GATT panels in the past.

So, it is not all as bleak as some would paint it. The fact is we have made progress. The fact is this is protective of U.S. environmental and health and safety laws. The fact is the dispute settlement understanding is helpful, not harmful, and our sovereignty is protected under this agreement.

Senator KERRY. Well, when you say—first of all, I agree with you that the GATT decision does move to at least recognize the right of extraterritoriality. But in the same breath it strikes down the particular actions taken by the United States and finds that our efforts under article 20 which specifically—you know the language, but I think it is worth putting in the record—which specifically, under section B, says, "those efforts necessary to protect human, animal, or plant life or health."

It specifically strikes down our efforts under the MMPA as somehow discriminatory, notwithstanding that we have required our fishermen already to retool, regear, and we have lost one-half our fleet or more to the South Pacific as a consequence of this action, and now we are being told that Mexico can fish by those standards that they choose to, notwithstanding our efforts to reduce dolphin mortality; correct?

Ambassador KANTOR. Frankly, their dolphin mortality rate now, because of our efforts, is now as low as the United States, as you know.

Senator KERRY. Correct, we have knocked it down from 100,000 to 5,000, and we are trying to go down, under MMPA, to a 0-mortality rate. But Mexico has not implemented the same standards that we have in the effort to do that, so we are found discriminatory.

Now, under the WTO process that you are asking us to adopt, we would be subject to either pay compensation or we sit and talk, which is more dispute that you have sort of offered up as a second choice, or we can allow the aggrieved government to withdraw some equivalent WTO concession or pay a fine for as long as this stays in effect.

Ambassador KANTOR. Well, it is not pay a fine. It is withdrawing trade privileges or imposing trade retaliation.

Senator KERRY. Well, there is a financial penalty to it.

Ambassador KANTOR. Let me just say in this case——

Senator KERRY. There is a financial penalty clause.

Ambassador KANTOR. Yes. Let me just say, so we understand what we are talking about, we have $1.7 trillion in trade a year. In this case, with the Europeans, what is at stake is less than $500,000. I just do not want to overstate what this case is about.

Senator KERRY. The MMPA, you mean.

Ambassador KANTOR. It is critical in terms of the MMPA. And nothing in this ruling, as you know, Senator, better than I, requires us to change any law or regulation of the United States or any State.

Senator KERRY. I agree with that. I agree with that. It does not require you, and I think it is very important for those opponents who argue the sovereignty issue to understand it does not require us to change the law. I totally agree with that. It does, however,

subject us to a process of making a choice: either changing that particular component of our law so we are no longer in contravention or suffering one of the three continuing sanctions, if you will, as a consequence of our choice.

Ambassador KANTOR. But—if I might, because this is obviously critical and you are raising, as usual, the correct issues here. In 1991, Mexico won the first case under the—of the so-called tuna-dolphin cases. Because of negotiation with the United States—in their relations with us, we entered into negotiations, they did not take that to the GATT Council, as you know. It was not implemented.

There is a reality, I think, that we all recognize. When you are the largest economy in the world, which we are, and the largest trader in the world, both imports and exports, as we are, there is some concern, to put it mildly, on the part of other countries as to how they are going to implement even winning GATT panel or WTO panel decisions. I think it is a reality that should be recognized, as we live in a practical world. The fact is that negotiations after GATT panel decisions are more the rule than the exception.

Senator KERRY. I would imagine that you are well familiar with the arguments that were used in 1947 to kill the ITO effort, and obviously some of those are now resurfacing. Would you help the committee and me personally by articulating in your view what in the WTO and in the agreement of this year of 1993 and 1994 distinguishes this agreement from the prior agreement and from those arguments which were used to kill it back then?

Ambassador KANTOR. No. 1, for the first time we have written consensus—in other words, acting by consensus in the World Trade Organization or in the Uruguay Round—into article IX. This was always a method of operation in the GATT, but it was never codified as it is now. That is No. 1.

No. 2, no substantive obligation or responsibility of the United States of America can be changed under this agreement without our consent.

No. 3, whereas the GATT operated by majority rule in those cases where votes would have been taken—and in most cases they were not because it operated by consensus—in those cases where nonsubstantive rights or obligations are involved, in most cases we operate by two-thirds or three- quarters vote where under the GATT it operates by majority vote.

So, in every case—literally ever case—where you have either procedural or substantive rights at stake, either under a GATT council or ministerial proceeding, what you will find is this is much more protective of U.S. and other sovereignty than is the current GATT situation.

Let me make one other observation. Other nations are as concerned about their sovereignty as are we. This is not an issue that is unique to the United States. No one wants this contract organization to become more than it is. However, it is critical, if we are going to expand trade, build jobs in this country, raise standards of living, create consumer economies around the world, we have got to have at least a base level of rule in order to make sure we can penetrate these markets where we have been locked out in the past.

Senator KERRY. Well, what do you say to those who raise the sovereignty issue, who build on the lack of transparency that you have alluded to, and who suggest that the United States will be placing, similar to the MMPA and let us wait and see what happens on CAFE standards, but in those situations we will be placing ourselves into a lose-lose situation where they would argue that we subject ourselves exclusively to the judgment of all of these other countries about our laws, and that in essence we are transferring to this international entity a review of the propriety or judgment that has been put into those laws, and that while they cannot force us to change them directly there is indeed a huge amount of pressure placed on us because of the judgments that they can make and the sanctions that they can invoke as a consequence of those judgments?

Ambassador KANTOR. I would have a couple of responses. No. 1, we have had the largest open economy in the world in terms of trade. Generally speaking, our laws, because it represents an open trading system, would not be subject to the same kind of attack that laws of other countries would be subject to under this agreement. That is No. 1. I mean, that is just a matter of history and a matter of current reality.

The second is it is the nontariff and tariff barriers and the restrictions placed by other countries and their failure to implement certain kinds of international regimes that really spurred the need for this round. The fact is the restrictions in the nontariff barriers, as well as tariff barriers, around the world, the failure to open up agriculture as well as industrial areas and to protect intellectual property which is—we are frustrated, not only the United States but the developed world.

Two things were done here that were critical. One, it is a single undertaking so everyone undertakes comparable responsibilities. As you know well, Senator, there is for developing nations a 10-year runup in some cases or 6 years in others in order to implement certain provisions. That made good sense. But there is a comparable responsibility on everyone's part. That has never been done before. It did not happen in the Tokyo Round; it did not happen in the Kennedy Round. That is critical.

Second is, if you begin to lower export subsidies in agriculture, internal supports in agriculture; if you go to tariffication to get rid of nontariff barriers in agriculture; if you require current and minimum access, which for the first time have opened up rice in Korea and Japan, which, frankly, as a political matter is a stunning achievement of this round and of, frankly, negotiators from the United States for three administrations to get that to happen and the courage of a former Japanese Prime Minister. What we have achieved here is greater access in agriculture, a 40-percent reduction in tariffs around the world in industrial products—where we are frankly the strongest Nation in the world in almost all of these areas, and protected intellectual property. I cannot think of a formula more in the interests of the United States of America and of our economic future.

Senator KERRY. In principle, I think the broad outlines of this are exactly as you have described, but I think it is very important to draw out the record here because there is going to be an intense

debate, obviously, over this question of sovereignty. I know my colleagues are waiting. I just want to ask a couple of specific questions because I think the record needs to be as complete as possible in order to facilitate that debate with facts rather than a lot of fears that are going to be expressed in various form.

One of my concerns that remains, and I said in broad outline, is the specifics of arriving at the dispute resolution and our expectations as a country about due process and openness. And I wonder if you think that in the implementation process or even outside of it prior to our ratifying this, which I might add is, as I have talked to a number of our trading partners both in Asia and Europe, being watched very closely as to what we decide to do and how we proceed, would it be possible to open up the dispute resolution process somewhat so that in the implementing bill there is the potential for amicus brief participation by interested parties, expert testimony, and perhaps even a public comment period such as we are commonly used to here, with you specifically reporting to us on changes to U.S. environmental law that might be required as a result of trade disputes? Is that something we might be able to make progress on?

Ambassador KANTOR. We have already started in that direction. There is a preparatory committee, it is called, for the WTO. As you know, there is nothing in the Uruguay Round which would prohibit amicus briefs, public proceedings, public participation, nongovernmental organization participation, release of all documents, and so on, as you know.

We have, in the tuna/dolphin case, in our appeal to the GATT Council raised all of these issues in the current GATT format. We have done it for obvious reasons. One, we are concerned about the lack of transparency and the lack of participation as a matter of sunshine or the philosophy of sunshine. But second, we want to begin to raise these issues every chance we get in order that in the preparatory committee we begin to move our friends and trading partners and those who are members of the WTO toward more open and transparent proceedings.

I could not agree with you more. I not only think it is critical in terms of the quality of the decisionmaking, I think it is critical for the credibility of multilateral decisionmaking which we are going to have to rely on to some extent in order to open markets around the world. And I am trying to on behalf of the United States convince my colleagues that it is in their interest to move in this direction.

Frankly, it is counterintuitive to many others representing other countries, as you know.

Senator KERRY. I understand that.

Ambassador KANTOR. But we have made progress. Frankly, under the Uruguay Round it is more transparent, it is more open. It is not as open as we would like, and we will continue to pursue these objectives.

Frankly, Senator, I would welcome any kind of move by the Congress which would have regular reporting periods on our progress in this area where the Congress would make a clear and, frankly, strong statement of its support for transparency and for openness and participation in order to back up our views in this matter.

Senator KERRY. Well, I appreciate that. I will close off. Let me just say that the final agreement makes the "no more trade-restrictive than necessary" test or "least trade-restrictive" test a substantive requirement, as you know, and I think that there are concerns about the strictness of that, if you will. The burden of proof in a dispute under article 20 now under your agreement falls on the country seeking to defend its environmental law. I think that really the burden of proof ought to be on the challenging party. And there are other words and phrases in there that are of concern as to what they are going to do and the standard that is going to be applied in dispute resolution. I would like to see if we could not find a method of dealing with some of that.

I just am not encouraged by the movement within the standing committee or the prospect for movement within the standing committee, and so I feel more compelled, as I think others do, to try to get some kind of safeguards in this area as part of the implementing language, if that is possible.

Ambassador KANTOR. I think we had a number of important changes, and will only quickly reiterate without taking too much of the committee's time. One, we are able to maintain stricter laws than international standards. Two, we can maintain as high standards as we wish. Three, we have the science base, as you know, for a standard.

The fact is that we were able in this situation to obtain a number of changes in the sanitary and phytosanitary area which were important to maintaining not only our environmental laws but to protecting our health and safety standards here in this country. I believe it is an agreement that is in the best interests of the United States and far better than the current GATT.

As I said to you before, candidly, it is not everything that we wanted. We are going to continue to have to work on these issues. This is what I call a work in progress.

Senator KERRY. I agree with that, and I think the question we are going to have to decide is sort of balancing the interests that are at stake in that. But I will say this to you, that while everything you just said is correct, and you usually are because you know this intimately, the reality is that, while it does not require us to change a law, there are sanctions that could be put into effect on us and that could alter the balance of forces that are brought to bear in our marketplace on how we look at these things.

And you could eventually have many people in America beginning to lose their zest for some of these cleanup efforts, as they are already, incidentally, under the mandates and lack of funding. And if they suddenly see other countries saying, "Well, you are somehow in violation because your law is not the least restrictive method, and, while you have chosen in good faith to try to clean up your environment or your air or whatever for this or that or you have tough standards on fish inspection or meat inspection, we find that they are not our standards or they are not as less-restrictive as they could be, and therefore you are in violation."

And then, you have a choice. You either change them or you face one of those three sanction methods. All I want to do is guarantee it is coming up to the highest plateau, not being dragged down as it might be in that way.

I think Senator Gorton is next.

Senator EXON [presiding]. I have the gavel, and thank you, Senator Kerry. The Senator from Washington is recognized.

Senator GORTON. This morning, Ambassador Kantor, I was at a breakfast with a number of economists, one of whom made the statement that in every case with prosperous countries in which that country has entered into an arrangement in which trade became more free the country became more prosperous, and that in every occasion in which such a country restricted trade it became less prosperous. Do you agree with that characterization?

Ambassador KANTOR. Absolutely. There is no evidence in history where any country who tried to restrict trade or close their borders became more prosperous as a result.

Senator GORTON. I think that cuts through almost the entire debate on this matter, and I can say you are here once again in the strange circumstances of attempting to persuade your friends, at least your political friends, and already having almost totally persuaded those who on a number of issues are against you. This Senator certainly intends to support this treaty unless you really screw up the legislation which implements it with things which do not relate to trade.

One more point: On June 10 you wrote to the American Forest and Paper Association that the administration opposed efforts to attach a log export ban to GATT and explained your reason for that. I would like to know whether or not that administration policy is one which is restricted to GATT-implementing legislation or is a general statement of policy relating to trade.

Ambassador KANTOR. Frankly, we already have a log-export ban, as you know so well, on public land.

Senator GORTON. On public timber, right. We are speaking about private land.

Ambassador KANTOR. This would extend to private lands. We believe that would be counterproductive and not helpful. It would be not only in opposition to other administration policies in terms of timber; we do not think it would achieve the desired result.

Frankly, the wood and paper area in the Round, as you know, we went to zero tariffs in paper. In wood, we were able to cut the tariffs by 50 percent in the first 5 years. Canada, the European Union, and the United States wanted to go to zero in 10 years. The Japanese Government, frankly, in a very difficult situation for them, could not go the next 5 years. They said they were willing to review it after 5 years.

So, although we did not achieve everything in this area we would have wanted; that is, zero tariffs in both wood and paper, we got zero in paper, 50-percent cuts over 5 years in wood, and we can pursue after 5 years with Japan the next step.

Senator GORTON. I want to tell you that I think that you did a good job there. Of course, we would have been happy had you been able to go further, but it is a clear improvement and a clear opening of markets.

I have only one final comment, as we are voting at this point and I am late for two other appointments. You know, you have already gone through the frustration of attempting to find the $14 billion

which I guess now is down to $10 billion according to some of our estimates.

Ambassador KANTOR. It is $12 billion, but I hope you are right. I would like it to go as low as possible.

Senator GORTON. Well, what my view on that is I think at one level agrees with yours, that it is an artificial construct, that if you estimated the effect of GATT right it is actually going to produce more prosperity and more revenues. I hope you grasp the nettle and just come up and say waive it. I want to tell you that I am willing to do that. I think many other members are willing to do that.

You are not going to find a tax, at least that you are going to get people to support here under such artificial circumstances, and I do not know, I would like to take the whole bunch of the President's programs, I would be perfectly willing to take the spending out of them, but you are unlikely to do that. Consider even more seriously just facing the fact this is really going to make money for the people of the United States and for the Government of the United States, and we ought to recognize that up front.

Thank you very much.

Ambassador KANTOR. Thank you, Senator, very much.

Senator KERRY. Mr. Ambassador, let me just say to my good friend from Washington that, while making money for the people of the United States is obviously one huge objective, and I could not agree with him more that countries that have economic exchange get stronger, there is a distinction between robber baron capitalism and enlightened capitalism, and there is a distinction between practices that totally rape every forest in the country, whether it is the Philippines or Laos or Honduras or Brazil, we have all come to understand that there is a relationship between what practices are chosen and how you enforce and implement them, and I know you know that.

We are not fighting you on this on this side. I think we are trying to guarantee that we have the strongest possible implementing language, so that we can move forward in a way that does less harm, not more, and that fulfills the obligations which we entered into in Rio with respect to agenda 21 and sustainable development and tries to maximize a new trading regime in the world.

So, it is not a question of either/or here, whether or not we are willing to adopt the notion that there is greater strength in trade. Obviously, there is, and we supported you in NAFTA and I, as I said, would like to be supportive here. I just would like to get the strongest implementing language we can get.

Ambassador KANTOR. And we agree with that. Frankly, Senator, nothing is more compatible to sustainable development than economic growth. In fact, the absence of sustainable development harms economic growth and is adverse to the interests of developing nations, especially. And I think a number of nations are coming to that recognition. We made great progress over the last few years, and I think we will make greater progress in the future.

Senator KERRY [presiding]. Thank you very much.

Senator Exon's 10-second tenure with the gavel is over. I now have it, and I have been asked to recess with the request that you remain here till the chairman gets back, which I think will be mo-

mentarily. I think he has another round or so. So, if you could do that we would appreciate it. So, we will stand in recess momentarily.

[A brief recess was taken.]

The CHAIRMAN [presiding]. Mr. Ambassador, I apologize. I thought we only had one vote, which I could facilitate by going earlier and then come back in order to keep the hearing constant and not waste your time.

I checked into the disparity between the number of cases. My understanding is the number you cited is where the United States was the sole defendant, and it did not include the number of cases where we were codefendants. We might want to double check that. Otherwise, I wonder sometime, in talking to some of my Democratic conventions and rallies how I was going to explain we were doing so well until I heard Senator Packwood talking about it is so wonderful to lose all of these jobs and that we ought to be bragging about it. We know differently.

The truth of the matter is, yes, it is increased productivity. But where are the jobs going?

By the way, the Japanese are not out of the apparel market—like that is a no-no or an unwanted industry. The truth is we found it is basic and fundamental to the U.S. national security back in Jack Kennedy's days, under the old national security provisions.

Before the President could enunciate a seven-point textile program—which President Kennedy did—we had to have hearings and make a formal finding. Then we had the Secretaries of Labor, Commerce, State, Defense, and Treasury. After formal hearing, they found that the textile industry was the second most important to our national defense.

Now, it is a foregone conclusion that there is no use to try to close the door after the horse has left the barn in NAFTA. The specialized industry of broadcloth, and not apparel, just abandon our apparel friends and 1 million jobs—40,000 in my State—and say you can go packing. We have got our special little niches. And where we have got the union label—you can see that little ad "buy American," they will have Evelyn Dubrow and maybe one other doing that in about 2 or 3 years on TV, because they will be the only two left.

You cannot maintain that apparel industry at $7.20 an hour versus Mexico at 58 cents an hour. That is why they are leaving. And that is why Delta-Woodside has gone down to Santo Domingo. And that is why Greenwood Mills is headed for Pakistan. And that is why Milliken—there is no more productive textile industry than Milliken. The Japanese come to see it. But they have now moved some of their plants to Japan.

And the Japanese have not gotten out of this industry as a no-no entity. On the contrary, they have very wisely invested in Indonesia, Singapore, and other countries. If you go down to Indonesia, all of those are Japanese plants, all financed and all operated—just not doing it in Japan. They have still got the control. They still have the market.

With respect to steel, as I understand it, these voluntary restraint agreements, VRA's, is not allowed any longer under your GATT agreement. And it took us 10 years with voluntary re-

straints—and of course the competition was obvious. The World Bank would run around telling every emerging nation that you cannot be a nation-state unless you produce the steel for the implements of war, unless you produce the steel for the implements of agriculture. So, they had them running all around all over the world with 2-percent steel down in Nigeria.

Coff Industries—we lost Willie Coff—but he had built down in Brazil. He built some in the United States. Otherwise, I dedicated one of his plants out in Kale, Germany. He was out in China building when he was lost in an air crash. But we knew what the competition was. In my front yard, I could look out the window and in the Port of Charleston, we were bringing in this Brazilian steel at less than cost.

So, we got the VRA's. And we now have a refurbished steel industry. But that there is sort of an anecdotal picture of just exactly where the country is. If you read James Fallows' articles, we are not in on the same field, much less leveling up the playing field. I mean, heavens above, these other industries, they use their governments—other countries use their governments. And if you come and have a hearing before this committee you get certain Senators that jump up and down—no industrial policy—we cannot have an industrial policy.

When I put in a minimum wage, I put an industrial policy. When I put in plant closing notices and clean air—all of that is industrial policy. But they will not agree to that.

Fortunately, the Clinton administration is going, with a modicum of just that industrial policy in technology. We are trying to develop a competitive communications system. We are trying to develop an export market for our environmental production. But the truth of the matter is that we have got a difference here, and I am going to have to, in just asking one question, since you have waited, on this 301—let us assume we can go ahead and take a 301 action.

Now, we know we cannot impose tariffs under GATT. We cannot raise those tariffs or, rather, impose quotas. And we come around with a good 301 case and win it. What kind of sanctions do you suggest?

Ambassador KANTOR. There are five or six we can. Before we begin, let me just respond in the apparel and textile area. One of the reasons I have a—I began in life learning a lot of what I learned—and maybe I do not know very much—about the Congress from Evy Dubrow and Kinney Young. Therefore, I come by whatever skills I may or may not have very honestly. So, we both have great respect for her and what she does.

The CHAIRMAN. The greatest respect in the world. And that is such an important industry and they are so productive. They are so productive. I have worked with them over the years. You had the northern textile and the southern textile industry. You had the apparel and the regular textiles. And we always had them working together until NAFTA.

But, please continue. Excuse me.

Ambassador KANTOR. Let me make a couple of comments about just the textile and apparel area, which I think we believe are important, and hopefully the Congress will agree with us. The administration will pursue language in our statement of administrative

action affecting those countries that have failed to provide effective market access in five ways. And we would of course be willing and be pleased to consult with you, Mr. Chairman, and on any other areas you think might be helpful.

One, to bring actions through the dispute settlement process to deny accelerated quota growth under the Uruguay Round agreement to those countries which of course deny us effective market access.

Consider action to permanently deny entry to overshipped goods from countries which have not provided market access.

We would decide not to integrate—that is, remove from quotas—until the very end of the process—meaning 10 years from now—products from countries which do not provide market access.

Consider removal of GSP preferences from countries which do not open their market.

And, last, consider action under section 301 against countries failing to provide market access.

I think that is, frankly, an approach that might be extremely effective in this area. We wish to pursue that, and we would like to work with you and your staff, Mr. Chairman, in this implementing legislation in that regard. We think it would have a positive effect in the textile and apparel industry as we move toward this Uruguay Round implementation.

Second, you asked me for other areas we could move on under 301, given the dictates of the Uruguay Round. Well, let me just mention eight of them. There may be others, but eight come to mind.

One, actions in the maritime sector under the authority of the Federal Maritime Commission, denial of telecommunications licenses, denial of banking licenses, conditions on the provisions of satellite launch services, denial of OPIC insurance, conditions on foreign aid, limits on science and technology cooperation agreements, and denial of certain visas.

There are a number of things we can do, not in the tariff area, which would make our actions effective under Section 301, either unilaterally or otherwise.

The CHAIRMAN. Well, I appreciate it. But, of course, none of those are really effective. We have found out that you have got to—like we did in SEMATECH and everything else—just really hit them like you are prepared to do in certain instances here recently and get realistic. What is good for the goose is good for the gander, and they are not going to open up their markets until it is to their economic interest. And all of those things that you list—they would not worry about at all.

In many instances, I am back to my original fare—that this is the nail in the coffin, the coffin being our profligacy and waste and running a deficit of $1 billion a day, where we have lost our economic freedom. And here, now we come to the actual control.

Because you say constantly it does not change any law, but we know from the experience in the United Nations, they just vote against the United States as a matter of course. They call themselves undeveloped. They band together themselves. We have just found this out in hard experience with the Law of the Sea Conference and all of these other international bodies. And they look

upon us as fat, rich, and happy. And they think that is the way to get the attention, irrespective of the law itself.

Ambassador KANTOR. Mr. Chairman, if I just might comment.

The CHAIRMAN. Yes.

Ambassador KANTOR. Because you are raising critical issues, obviously, as you know.

The CHAIRMAN. How do you get on the panel? And then, if you got even on the panel that would rule for or against you, your appeal would go to the 117 or whoever have signed this, and how many times do you think we would get a majority vote out of that 117?

Ambassador KANTOR. Well, so far, we have won 90 percent of the cases we have brought. We have done quite well under rules which were not of course designed as well as these.

The CHAIRMAN. Well, that is not what the studies show of we, as a defendant country, I can tell you that right now. It was not 90 percent. This percentage thing, that is the fellow that drowned in a mean level of a two-foot swimming pool, but he got into the deep end. It is the mean level—the percentage.

That is lawyer's talk. You and I know that. We have tried cases.

Ambassador KANTOR. Even hillbillies from Tennessee can add and subtract. We have learned that.

The CHAIRMAN. Right.

Ambassador KANTOR. We brought 31 cases and won 28. I do not know how much better we could have done except 31 for 31. That is a fairly impressive record.

The CHAIRMAN. That is how many we brought. But then we have been turned into a defendant. And we are going to turn into a bigger defendant with GATT. That is the whole point.

Ambassador KANTOR. We have only lost 13 cases—13½ to be absolutely precise—over the years even when you count when we were a defendant. But that is really not—where we are, Mr. Chairman, is this. We have done very well in international trade. We are more than productive and competitive.

The CHAIRMAN. That is different. How have we done well in international trade when I am losing my shirt? Come on. We have got a tremendous deficit balance of trade. The history of this country is a commercial nation right on up until about 1980. But then we started with all of these big deficits. We have lost in that period of time, since then, $1 trillion in the deficit and the balance of trade. We have lost 2 million jobs. The middle-class real income is down. And you are telling me we are doing awfully well.

Where do you find that?

Ambassador KANTOR. Jobs are growing. Let me just say, we did a chart—and we will submit it for the record—over the past 34 years the correlation or lack of correlation between trade deficits and employment growth. And in fact, there is an inverse correlation.

As our trade deficits grow, our employment grows. Fascinating. And there is a reason for that.

The CHAIRMAN. You are telling me we ought to increase the deficit so we can get up employment?

Ambassador KANTOR. Just for a second.

What we do as our economy gets stronger and we suck in imported goods, we create employment and jobs. It is the growth in exports that is so critical to us. The fact of whether or not you have a trade deficit may or may not have an adverse effect upon U.S. economic security.

What has happened in the last year—it is interesting—our trade deficit rose and we have created 3 million new jobs in this economy. The fact is many were related to exports, which went up, as well as imports going up. The reason for that is, under the President's program, our economy became much stronger.

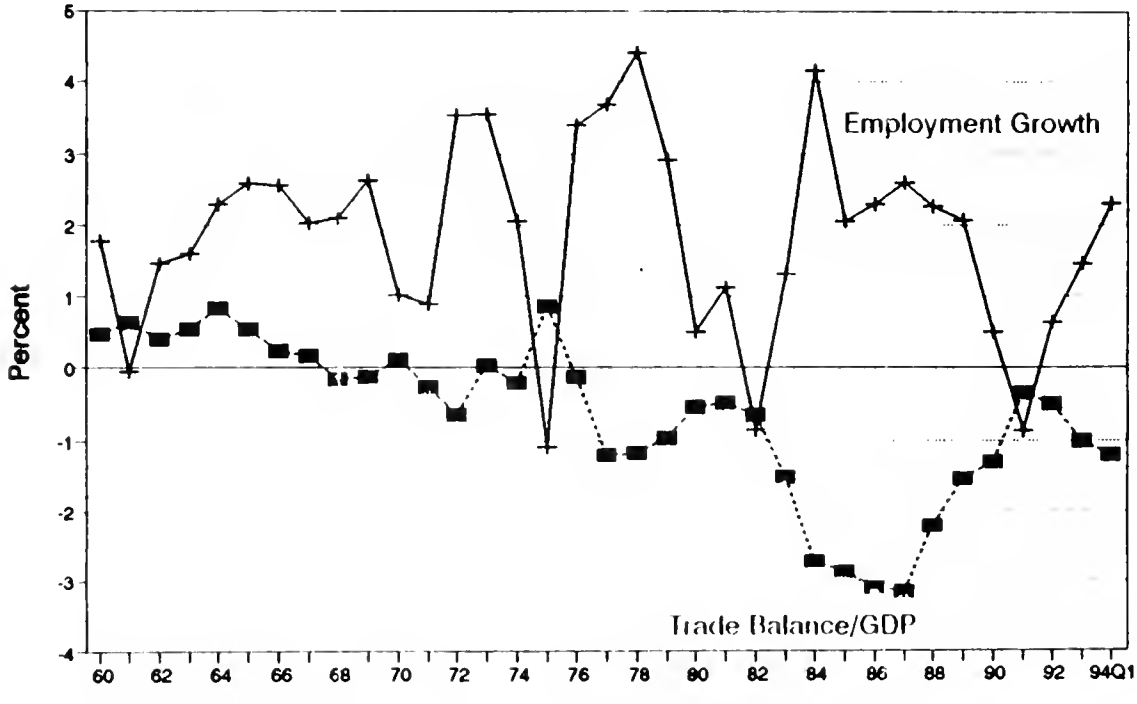
I will send a chart, which you will put in the record, I hope, Mr. Chairman, which will show literally no correlation between the deficit and the creation of employment—no correlation whatsoever.

[The information referred to follows:]

FIGURE 8

• Some have argued that trade deficits cost jobs. Over the last 10 to 12 years, however, employment growth was strongest when deficits were particularly large. These deficits have been associated with large net inflows of foreign capital needed to help sustain healthy U.S. investment rates. The supplement of borrowed foreign savings to the depressed levels of U.S. domestic savings has meant more investment, more economic activity, and in all likelihood more jobs at higher real wages.

• The inverse relationship between employment and trade balance changes is fairly consistent over the last three decades. Even before the large U.S. structural savings-investment imbalance appeared in the 1980's, surges of U.S. economic growth tended to "weaken" the trade balance while sharply expanding employment.



The CHAIRMAN. Well, I can see why we are in trouble.

Ambassador KANTOR. Mr. Chairman, we are not in trouble. We are doing very well right now.

The CHAIRMAN. No, we are in trouble. I picked up the RollCall last week. And you will find this week Bill Proxmire's letter—I just have not been able to catch my breath—where the fellow said, "Do not worry about the deficits." And they actually published that. Now I am hearing from you, who is long on common sense, that there is no correlation at all between deficits and jobs.

Ambassador KANTOR. No, sir. Let me make it clear, if I could, Mr. Chairman——

The CHAIRMAN. And then you are talking about exports. Let me complete this thought, and then I will yield to you.

Ambassador KANTOR. Sure, I am sorry.

The CHAIRMAN. You are better than Fred Astaire at dancing back and forth here in a softshoe number, I can tell you. But this is entitled in Businessweek, "Dispelling the myths that are holding the United States back." And just a paragraph:

> Moreover, success overseas is not translating into job creation at home. In recent years, it has been harder to find a job in the exporting sector than in the rest of the economy.

And, you know, Boeing, the country's top exporter, which I have quoted already, has lost 23,000 jobs, even though orders for commercial aircraft exceed last year's record. And even before the recent round of layoffs, employment in the computer industry has dropped by 5 percent since 1986.

Indeed, the exporting sector now employs only one-eighth of the work force, and this year is eroding. And they have got the chart. We will put the entire article in the record.

The CHAIRMAN. The reason: Although many exporters have been expanding output and sales, they are also boosting productivity by shedding jobs and substituting capital for labor. And successful industries have been spinning off their production to smaller suppliers, either at home or abroad, to take advantage of lower wages.

Now, this is what has happened. We are going to economic you know what in a hand basket, and we are told we ought to be proud and we ought to be bragging about it and everything else. You cannot have—the front line of defense now is economic and economic control. And we have got to understand that in this Congress. And do not fuzz productivity with economic strength.

Yes, we have the most productive, but we are getting lesser and lesser into the manufacturing sector and the backbone of the economic strength of this country, losing it every day. And we have hearings now and they tell us we ought to be happy about it.

I just, through hard experience, got into business 40 years ago trying to carpetbag the Northeast, and bring to our little rural State, which now is an industrial State, jobs and industry. And I have seen it over the years, come. We have got the finest in productivity and technical training. We know about exports. Let me list them.

I mean, heavens above, I got Amoco. I met with the vice president, and we are exporting to China. I have got National Cash Register, and we are exporting to Europe. I have got Proctor & Gamble that put out the Maryland factory and everything, and we are exporting to Singapore. I have got General Electric's most productive unit on magnetic resonance imaging, and we took over the business from Toshiba, and 50 percent of what I produce in South Carolina—over 50 percent—goes to Tokyo, Japan.

So, if you look on southern Governors as not knowing what the devil is going on—we are into the business. We know.

Now, what is happening is they are leaving. And they are going to all of these other places. And we are not getting the blue chippers coming in, like we have had over the years. The blue chippers,

the du Ponts and all are leaving. And we are getting in, yes, Hoffman-LaRoche, because, thank heavens for Switzerland and their cost of doing business. We used to say thank heavens for Mississippi. Now, thank heavens for Germany. It is $30 an hour over there. It is $15 an hour in the United States, with benefits. So, we are getting BMW.

I am getting in foreign plants due to that disparity. But I am into the real competition for the control—the Pacific Rim and with China—and that is where the future is. And I heard some expression here that we did not want Europe to go protectionist—Europe is protectionist. Come on.

If you buy an automobile in Charleston, SC—they ship in 1,000 Toyotas into Portland, OR. They will have an hour inspection of about 10 of them, put them on flatbeds, send them to the east coast, and we are selling them like hotcakes.

If I put a Ford on the dock in Tokyo, it takes it 4 months. But that is not bad. It takes it 1 year to buy a 1994 Toyota in the country of France. I do not know where these children come from about they might go protectionist. Heavens above. You see yourself going out of business—and I do not want a good man like you coming up and telling me there is no connection between the deficits and jobs.

Throw away that econometric bunk. Because we are going out of business. We are losing our shirts. And you are putting us into the ultimate. And I know these international organizations and how they look upon the United States. And I understand it. It is human nature.

And if you are putting us into a World Trade Organization that does not have a security council, if you are putting us into a World Trade Organization that does not have a veto—that has kept us alive and our commitments alive and Israel and other things that we are proud of alive—and put us in there to a vote with Rwanda and Jamaica—I mean, you have got a hard time explaining that we have not changed the laws and this shall not change the laws—you make me think of the other experience I had with my distinguished friend from Nevada, Senator Cannon, when he was chairman, and we had in the seventies deregulation.

They had me on other work. And I kept asking Senator Cannon, I would say, "You were the great pilot in the war and you know the aircraft industry better than me, are we protecting the small- and medium-sized towns?" "Oh, yes." "Are we?" "Yes, the law protects them." And we got it in the law. But we looked at the facts. And competition has gone for the long haul and it costs. On a regular ticket, I get the Government rate, but my wife, on the regular tourist rate, it was $690, almost $700, roundtrip from Washington, DC, to Charleston, SC, and back. And I got a ticket, I can go to Frankfurt, Germany and back from Washington, DC, for $279.

So, we know the facts of life, and to talk about it, that it does not change the laws, we know what is happening to us. And to even looked upon as being disloyal, that is an accomplishment. No other administration could get a GATT agreement, but I think—even though I do not like the textile part, you have got some good things. You got as far as you could go. But, like Bossie the cow, you gave a full pail and end up with WTO, you kicked it over. That is our problem.

Ambassador KANTOR. All the WTO is is an administrative body to administer the contractual agreements in intellectual property and, in the GATT, the trade and services. That is all it really is, Senator.

Let me remark about a couple of things, if I might. One is the idea that we want to open markets in critical areas of trade, and that does make a difference where we have deficits where markets are artificially closed to us, is one you and I agree on, we have agreed on from the very first moment I have taken this job, whether it is semiconductors or medical technology, or in Japan, or autos or auto parts in Japan, or telecommunications in Europe, or apparel in India or Pakistan.

That is where it is critical. That is where those deficits which are products of artificial barriers, based upon protecting a market that should be open comparable to our market, is where we get hurt. That is where we get hurt, and that is what costs us jobs, and that is where we ought to be resolute in opening those markets.

The Uruguay Round helps. Our 301 and unilateral ability to operate on our trade laws helps. What helps more is if we are absolutely committed as practical people to open those markets. It is telecommunications, it is computers, it is semiconductors, it is electronics, it is autos, it is auto parts, it is apparels, it is textiles, it is agricultural goods in certain markets, as you know.

In the last year in China, for instance, we have opened up 823 new tariff lines in manufactured goods under MOU because we have been absolutely resolute in dealing with them. When they did not want to enter a new bilateral textile and apparel agreement which would stop this circumvention of our laws and this transshipment, we said, "Fine, we will invoke sanctions, we will cut you 25 to 35 percent," and we had an agreement in 5 days, Mr. Chairman. It took 2 days for Ambassador Hillman to fly there—24 hours later, we had an agreement.

So, you and I have no disagreement about opening markets overseas and how it affects employment here at home. My only point was that we need to look at this in a smart and practical and pragmatic way to take those areas where we are most competitive and productive, where we can build the U.S. jobs and open those markets overseas, whether it is Japan, or India, or the European Union, or in Latin America.

The Uruguay Round is just one way, one way of beginning to do that. We have other ways we have to pursue as well, whether they are bilateral agreements, our trade laws, regional arrangements—however we can do it, and we will continue to pursue it. On that, I know we agree.

The fact is, no substantive right or obligation of this country can be taken away or affected by any vote—any vote of this World Trade Organization without our permission. We do not have to adhere to it. That is really the bottom line in this agreement. It is a contract. It is a contract between, literally, 117 nations, and any one of the contractual parties can either agree or not agree to affect their subsidy rights under the contract.

The CHAIRMAN. Well, you and I know that the World Trade Organization can find against us, and all of these documents, whether

it is a Japanese book or the European Commission book say that 301 is strictly a violation of GATT.

So, let us assume they found it in the World Trade Organization. It is not whether to change the law or anything else. Once you vote for GATT, for the World Trade Organization's ability to find what they have already found, and they put us on notice and everything of that kind, then what do we do, say, well, the law has not changed and we have not changed the law? But I am telling you, the sanctions are there against us. What do you do then?

Ambassador KANTOR. First of all, just because the European Community puts out a piece of paper indicating they do not think 301 is viable under the new trade agreement does not make it so. Frankly, they are just wrong, and they know they are wrong, and we discussed it in our negotiations.

The CHAIRMAN. Well, let us say they make a faulty decision, and it is the wrong decision but that is what they find, the Europeans, the Japanese, the lesser developed countries, all except us, and we know it is wrong, but that is what they found. So, what do we do?

Ambassador KANTOR. Well, the fact is we do not have to change our law. We do not have to change the way we proceed.

The CHAIRMAN. They have got sanctions against me. I am not talking about the technicality of changing the law. Let us get away from the legalese. Let us get to the fact. They have found, and they have sanctioned against us even though it is a wrong decision. Then what do I do?

Ambassador KANTOR. I am not sure how exercising our right under 301, which is a process of invoking trade laws, is going to be subject to sanctions by any other party.

Now, a party may go to the GATT and say they do not have to respond, but we have to go to the GATT anyway, if it is a GATT-covered item or GATT-covered country under 301.

The CHAIRMAN. Well, it is a GATT-covered item, and they have already gone to GATT and they found against us. I am back.

Ambassador KANTOR. Well, the fact is we have used the GATT dispute settlement mechanism. The fact is, Mr. Chairman, that situation will not pertain. Where they could go against us, where you are correct, obviously, is in non-GATT-covered countries or items where we act unilaterally and we invoke, let us say, tariff discrimination or tariff sanctions against another party. Then they might challenge us in the GATT. That is where you are correct in that regard. They could challenge that.

The CHAIRMAN. Well, the hour is late, and I know you have got to go, but with respect to the jobs and the deficit and the debt, and we put ourselves into that situation, we have the economic report of the President, and there it is, on page 63. Foreign competition and cutbacks associated with debt workouts also have been factors.

So, they look upon that debt—and there is not any question that everybody is surprised at Alan Greenspan. There is no indications of any kind of inflation, and yet he keeps on ratcheting it up, and the reason he ratchets it up is because, when you lose the value of the dollar, you have got to get a bigger yield on your Treasury bills and your bonds so that the Japanese will continue to buy them, and that is where we have lost our economic independence.

There is no mystery to this situation. We are into a heck of a fix. In fact, what we do at 8 o'clock, Mr. Ambassador, is go down and borrow $1 billion and add it to the debt, and every weekday this year—it is over $311 billion, and the interest cost, now that does not pay off the debt. It is right at $4.7 trillion. This time next year it will be in excess of $5 trillion.

So, I am just going up, up and away, and the only way I know, because we are spending over 300 and some—almost $1 billion a day more than I am taking in, and nobody in his right mind has got any plan or proposal to cut $300 billion. On the contrary.

Everyone, Republican and Democrat, is for health care reform that is going to cost billions, welfare reform that is going to cost billions, trade reform that is going in the morning paper up from $43 to $50 billion. Look at the morning paper.

All of these maritime reforms, foreign policy reform, and peacekeeping—I happen to have that. That is going into the billions. We want to give money down to South Africa, and I approve of it. We have got to get some more into Somalia. We have got to give some to Russia to make sure she keeps going. We have got countries galore. Haiti is not going to be a zero sum game. We are going to put some money there.

So, I can go down all the particular reforms, and they are in excess of $200 billion, so rather than cutting back $300 million we are going up $200 billion, and we need some revenues, and we are not getting them, and we are getting off worse and worse, and that is cutting back on our productivity and jobs, because the investment that then we use goes into that market.

They got the sharp elbows of the U.S. Government, in there ahead of them shoving them out of the market, and they cannot finance so they go over and get a favor. Just like South Carolina would favor BMW coming there and giving them certain goodies to bring them there, we go over into these other countries and not only get the goodies, we get full protection.

You talk about protectionism, you get a guaranteed profit. When you invest down in Mexico right now you get a guaranteed profit, in Pakistan—I mean, it is wonderful. If I was running a business—I do not blame them as being unpatriotic. They have got to look out for stockholders, and that is what is happening to us, and when you bring this World Trade Organization on the premise that we are on the same field—much less level, we are not even on the same field.

I will send you Jim Fallows' series of articles, which is one of the most recent treatises on this, and he explains why—and we bring the Emperor here. I do not know that the K Street lawyers did not bring that, because we are all having a love-in and making your work even more difficult again. Just when we were going to get realistic—not tough on Japan.

I know my good friends, Hobart Rowan and all of those, they have got to write those articles. They have been grinding them out. You talk about term limitations for us. I would like to get term limitations for some of these editorialists, because it is the same scene, same act, and everything else, and they got us in the soup. I am going out of business and I am supposed to be happy about it.

Thank you a lot, Mr. Ambassador.

Ambassador KANTOR. Mr. Chairman, thank you, and I really appreciate your last few paragraphs. That was very helpful.

The CHAIRMAN. Thank you.

[Whereupon, at 12:45 p.m., the committee adjourned.]

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