

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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TRADE POLICY REVIEW MECHANISM

UNITED STATES

MINUTES OF MEETING

Chairman: Dr. M. Zahran (Egypt)

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I. INTRODUCTORY REMARKS BY THE CHAIRMAN OF THE COUNCIL

1. The Chairman welcomed members of the Council to the third trade policy review of the United States. He recalled the purpose of the Trade Policy Review Mechanism as decided by the Council on 12 April 1989 (BISD 36S/403). Accordingly, the Council was to base its work on two reports, one submitted by the U.S. Government (C/RM/G/45 and Add. 1) and the other by the GATT Secretariat (C/RM/S/45).

2. The Chairman also thanked Ambassador William Rossier, from Switzerland, and Ambassador K. Kesavapany, from Singapore, who had agreed to act as discussants, on their own responsibility, in this meeting. He invited the representative of the United States to give his introductory statement, followed by the two discussants.

II. OPENING STATEMENT BY THE REPRESENTATIVE OF THE UNITED STATES

3. Mr. Chairman, Ambassadors Rossier and Kesavapany, Members of the Council, it gives me considerable pleasure to speak on behalf of the United States delegation on the occasion of our third review under the Trade Policy Mechanism. The Clinton Administration market-oriented, rules-based trade because we are convinced that trade creates jobs and enhances competitiveness. Our adherence to policies based on this conviction played an important part not only in the United States' emergence from the recent recession, but also in an improvement in our level of international competitiveness. The American economic recovery and our strong commitment to the system are also good news for our trading partners.

4. There have been some very significant developments affecting the international trade of the United States in the two years since our last review in this body. Ranging from the successful completion of the NAFTA and Uruguay Round negotiations to ongoing efforts to improve and deepen trade links in the Pacific Rim, to bilateral trade relations with our key trading partners, these developments effectively set the stage for this review.

5. The United States is unmatched as a market for other nations' exports of goods and services, and we are the world's number one exporter. This position in the global market place brings with it a special responsibility for ensuring the vitality of the international trading system centred on today's GATT and tomorrow's World Trade Organization. It is a responsibility that the United States has accepted, and we have demonstrated our continuing commitment to the system through our actions - including our strong support for the successful completion of the Uruguay Round.

6. The American market is one of the most open in the world to imports. All our policies are aimed at expanding U.S. trade and investment and this is reflected in the trade data. It's one thing to note that the United States takes fourteen per cent of world imports; but it's another thing to recognize that our market takes in 24 per cent of global clothing imports; 22 per cent of office machine and telecommunication equipment imports; 21 per cent of automobiles and parts imports; and 17 per cent of all machinery and transportation equipment imports. The huge volume of imports in all of these sectors represents direct and important competition to some of the most important American industries.

7. These statistics not only illustrate our openness, but also underlie the Clinton Administration's conviction that U.S. domestic economic policy goals can be realized only if the United States remains competitive in world markets. As we have highlighted in our own contribution to this review, we believe that open, international, market-based competition will lead to the growth of the most competitive sectors of the U.S. economy, creating good paying jobs and higher living standards not only for Americans but also for those in other trading nations which subscribe to these principles.

8. The Clinton Administration is committed to the expansion of market-oriented, rules-based trade. We Americans have a deeply held view that such trade expansion creates jobs, raises living standards and enhances competitiveness for ourselves, certainly, but for other similarly-oriented countries as well. Our policies are the polar opposite of so-called managed trade which attempts to limit market access. Our aim is instead to remove barriers and other tools of government management in order to expand trade and investment. U.S. actions which have been frequently criticized as protectionist or unilateralist actually have been market-opening in both intent and result.

9. Frankly, however, we believe that we will all fully benefit from trade expansion only if others share our commitment to market-oriented, rules-based trade. Others have an equal responsibility to build a truly open trading system. The Clinton Administration considers that the days of one-way

openness in trade are past. Even in sensitive sectors, the United States has markets which are now very open and will open substantially further as a result of the Uruguay Round. Others must show similar commitment if we are to maintain and expand a trading system which will effectively contribute to global growth and prosperity.

10. The Clinton Administration also views trade policy as an integral part of an overall economic strategy to foster the growth and competitiveness of the U.S. economy. It is not very long ago that the American scene reflected widespread doubt about our ability to compete with our major trading partners. Trade was seen as part of the problem, not part of the solution to our economic weakness. Close to the centre of the problem was our failure to adjust sufficiently, and to compete successfully, in what is for the United States a new global economy.

11. Our country is meeting head on the tough challenges facing our economy and we are building a foundation for prosperity into the next century. We are attacking our domestic problems - health care, education, budget deficit reduction, worker retraining and employment security programs. These are vital pieces of making the United States more competitive and prosperous.

12. Early signs from our initial efforts are promising. In the last quarter of 1993, our GDP grew at an annual rate of 5.9 per cent, with non-farm output growing at a 6.6 per cent rate. Other indicators are also positive. In the last quarter of 1993, productivity increased at an annual rate of 4.2 per cent. Unemployment has declined by almost one percentage point since June 1993. Inflation in 1993 was a modest 2.7 per cent.

13. Private investment increased by 12 per cent to \$821 billion in 1993, the sharpest rise since 1984. Personal savings during the first three quarters of 1993 were running at a projected annualized rate of 7 per cent higher than the comparable period of 1992. While personal savings as a share of income have not grown, this is a common pattern in the early phases of economic recovery. Households are, however, like U.S. corporations, significantly reducing debt burdens relative to income.

14. Perhaps the best news is that our budget deficit will be coming down from \$276 billion in 1992 to a projected deficit in 1995 of \$165 billion or less. Even more impressive is that the deficit will decline from 4.6 per cent of GDP in 1992 to an estimated 2.4 per cent of GDP in 1995. With the budget agreement reached last year between President Clinton and the Congress, the federal budget deficit should continue to decline relative to GDP. Clearly, Clinton Administration policies have led to real control over fiscal deficits. What all of this means is that the United States has entered a period of sustained economic growth.

15. We recognize that our major trade partners are currently suffering from less favourable economic conditions than in the United States, and this divergence in economic performance is currently reflected in rapidly rising exports to the U.S. market and a rising American trade deficit. However, our trading partners should not look to U.S. export markets as a tool of choice for economic recovery; rather each of them must accept their responsibility to pursue domestic policy adjustments to stimulate recovery and growth at home and for the global economy.

16. Also, hard economic times cannot be allowed to serve as an excuse for protectionism - even of a so-called temporary nature. If we had taken that tack in the United States, finishing the Uruguay Round or implementing NAFTA would have been impossible and economic recovery more difficult. The end result would have been damaging to the world economy and would have undermined our efforts to restore the U.S. economy's competitiveness.

17. Mr. Chairman, to digress for a minute or two, I think you would agree that no intervention by the country under review would be complete without some comment on the report of the Secretariat. As usual, we think that the Secretariat has done an excellent job in tackling what was doubtless a daunting task. There are however, a certain number of points where we think it is right to correct what would appear to be the Secretariat writers' confusion on the operation of certain aspects of American trade policy. In other instances, the Secretariat has prepared its document in a fashion which we believe tends to leave a biased impression in readers' minds.

18. We are gratified that this time around the Secretariat report does not engage in unfair criticism of American regional trade policy initiatives. Through the completion and implementation of NAFTA we have demonstrated that the NAFTA was crafted in a way that ensures that regional trade policy need not come at the expense of multilateralism. In fact, we are convinced that NAFTA is fully supportive of our multilateral efforts.

19. We find the Secretariat's characterization of anti-dumping activity in the American market a bit prejudicial. One could conclude that anti-dumping duty orders are seen by the Secretariat as somehow more "protectionist" than safeguard actions against "fairly traded" imports or VRAs imposed without reference to GATT rules. Safeguard actions involving fairly traded imports should be subject to a more rigid standard and we find it natural that a different standard should apply in the case of dumped or subsidized products. Similarly, a switch from un-sanctioned VRAs in the direction of GATT-sanctioned anti-dumping action represents a positive development in American trade policy.

20. In several places, the Secretariat's report implies that actions such as the resolution of the oilseeds dispute with the EU are elements of sectoral trade policy, rather than actions resulting from long dispute procedures conducted under GATT auspices. We would also question whether or not alleged industry-to-industry agreements or restrictions on exports to the U.S. market reportedly maintained by certain foreign governments on a unilateral basis appropriately form part of a trade policy review of the United States. Finally, I would like to draw your attention to the fact that the Secretariat's report makes several references to the United States denying m.f.n. treatment to a GATT Contracting Party by the name of the "Republic of Yugoslavia". For the record, the United States does not consider that the entity using this name is a contracting party.

21. To return now to our main theme, American trade policy has long benefitted from a broad consensus in U.S. business and government circles - a consensus that cuts across political party lines and has as one of its more important features the commitment to explore all available avenues leading to the realization of our national trade policy objectives. We follow a multi-track strategy of multilateral, regional and bilateral negotiations - together with aggressive enforcement of existing trade agreements. Over the past year, our highest priorities have been assigned to the successful completion of the Uruguay Round; creating the conditions necessary for the approval and implementation of the NAFTA; strengthening APEC as a forum for dealing with trade issues in the Pacific; and, the continuing improvement in bilateral trading relationships. It's been a lot of work, and generally speaking, it's been a very good year for U.S. trade policy - but there was also a lot of work which remains to be done.

22. Mr. Chairman, we look forward to the comments of the discussants and of the other participants in this review. We look forward to a constructive discussion of the evolution of American trade policy over the past two years and how we see our trade policy developing over the next two years.

### III. STATEMENT BY THE FIRST DISCUSSANT

23. The first discussant (Ambassador Rossier) considered this review of U.S. trade policies as particularly relevant for the multilateral trading system for several reasons:

- despite the recent changes in the relative importance of countries and regions in international trade flows, the United States remained the world's largest trading nation. Its economic and trade policies continued to have direct effects on the world economy and trading system;
- these effects were particularly important at this point in time, as the U.S. recovery was accelerating. With the exception of South-east Asian countries, the rest of the world's economy was in a less favourable situation;
- in this fragile context, most governments welcomed the U.S. recovery and expressed strong interest in the leading rôle of trade in this recovery. Excellent U.S. trade performance had cushioned the impact of the recession, and later contributed to the recovery;
- two central factors in the growth of U.S. exports were the globalization of production and trade worldwide, and the rapid opening of developing countries' markets to U.S. products.

24. In this context, the first discussant suggested two main axes for the Council's debate: (1) the instruments and policies that had allowed the United States to achieve a rapid and vigorous recovery; and (2) the coherence of current measures and policies, and the likely extension of the U.S. economic recovery to the rest of the world economy.

25. Regarding the measures likely to have had the strongest influence on U.S. trade between 1988 and 1991, he asked what had been, in the view of the United States, the rôle of the dollar's depreciation. Was the United States in favour of an exchange rate policy geared to reduce the trade deficit?

26. One of the main positive economic factors of export growth had been the substantial increase in the United States' industrial competitiveness. The Secretariat report suggested that labour productivity had increased by 22 per cent between 1980 and 1992. Other analyses (OECD Economic Survey, United States 1993) suggested instead that productivity growth had been relatively slow. Did the United States share this view?

27. The Secretariat report rightly insisted on the influence of financial discipline on U.S. trade policies and measures. The national savings rate had fallen between 1983 and 1990, and external savings had financed domestic investment. Pressures for protection had frequently been directed at high savings rate countries, with which bilateral trade deficits were sizeable. In this respect, what was the planned evolution of the national savings-investment imbalance, given the efforts to reduce the budget deficit and growing health costs? Was a rapid and substantial increase in public expenditure on health compatible with the objective of reducing health costs, as stated in the Government report? Were measures taken by trading partners to improve their market access in sectors of interest for U.S. exports likely to succeed if the savings-investment imbalance persisted?

28. Regarding investment, which was closely linked to the global economic recovery and productivity growth, and probably to export expansion, he noted that the main factor of growth in 1992 had been residential investment. What had been the performance of productive investment, and what were the prospects for growth in 1994?

29. Foreign investment would remain an important factor in this growth. To date, the United States had generally applied the principle of national treatment to foreign investment. Nevertheless, a shift towards reciprocity and conditional national treatment seemed to be surfacing. Was this indicative of a change in U.S. policy? Would the Administration clarify the ambiguities contained in the Exon-Florio legislation?

30. A striking feature of U.S. trade policy was its growing complexity, as witnessed by the Administration's "multitrack strategy". Nevertheless, the United States had proven its attachment to multilateralism, notably through the conclusion of the Uruguay Round. But regional agreements had a prominent position in the "multitrack strategy", witness the NAFTA and efforts to develop the APEC. Also, the United States was pursuing vigorous bilateral negotiations with the view to increased access for U.S. exports. This multiple approach raised a number of issues:

- what degree of priority would be given to Congressional ratification of the Uruguay Round package?
- was there not a risk that the increased degree of complexity in trade policy might discourage trade, as warned by a recent ECLAC report?
- the difference between the "European" and the "American" regional agreement concept, in terms of coverage, existence of a customs union, dispute settlement mechanisms and rules of origin was striking; and
- one was tempted to relate the intensification of regional agreements in 1991 and 1992 to the declining share of the European Community in U.S. trade during that period. Was this decline expected to continue in the next few years?

31. Particular attention had to be given to U.S. rules of origin. In 1994, seven different rules of origin systems would apply to U.S. imports, in addition to those applying to textiles. The Secretariat report highlighted the confusion and discretion that could arise from such a complexity. He wondered if the rules of origin were not used in some instances to manage trade, referring to NAFTA, as well as the GSP, CBI and MFA. Was the Administration considering a simplification of the system of rules of origin, for example through the adoption of the "tariff shift" method?

32. Finally, the first discussant turned to the m.f.n. nature of bilateral agreements sought by the United States from certain trading partners, such as Japan. The degree of specificity of such negotiations, involving for example American rather than foreign cars, and criteria used to measure achievement, raised concern as to the m.f.n. nature of such agreements, particularly when deals were made by private firms. How could this approach be reconciled with the principles of the General Agreement?

IV. STATEMENT BY THE SECOND DISCUSSANT

33. The second discussant (Ambassador Kesavapany) considered the principal trade laws that served to drive U.S. action in attaining its policy goals and objectives. The laws providing "remedies for fairly and unfairly traded goods" could be found in the Government report. These constituted the legal armoury at the disposal of the United States in bringing to heel trading partners whom it considered as being recalcitrant in observing stipulated trade norms and conditions.

34. For the first four post-war decades, the United States had been fertile ground for the international trading community. Even now, it continued to be perhaps the most open market in the world. The pursuit of free trade and open markets had contributed to U.S. prosperity. It has also enabled the United States to be a motor for global growth, and developing countries had benefitted from this apostolic rôle of the United States. If east Asia was today a region of fast growth and prosperity, it was in no small measure due to the openness of the U.S. market to exports from the outside world.

35. However, by the mid 1970's, the situation in the United States changed. Due to domestic conditions and external factors, the domestic economy began to experience difficulties, including a growing budget deficit and adverse trade imbalance. This led the United States to introduce measures aimed at restricting easy access for imports to its market. It was noteworthy that of the eleven pieces of legislation enumerated in the Government report, five were enacted in 1974; four had been enacted in the 1930s, the period of the Great Depression.

36. Despite this plethora of legislation enacted in 1974, the United States had not been successful in redressing its problems with its trading partners. In fact, the condition of the U.S. economy did not improve and pressure increased within the United States for even more forceful action. This led the Administration to move towards the adoption of unilateral trade instruments, particularly the 301 series of amendments contained in the Omnibus and Competitiveness Act of 1988. As Jagdish Bhagwati noted in the book "Aggressive Unilateralism", the 301 amendments were intended to establish new trade obligations by eliminating unfair trade practices by others and by opening up foreign markets.

37. While the objectives of seeking an elimination of unfair trade practices and market opening measures were laudable, as any gains were to be on an m.f.n. basis, and therefore of benefit to the rest of the international trading community, a distinct feeling of discomfort had begun to arise in the international trading community. This was because the U.S. determination to prise open markets by means of managed or targeted trade, or in the words of a former United States Trade Representative by means of a "crowbar", was seen as being clearly antithetical to the principles of free trade.

38. Recent developments had further exacerbated the situation, with at least one large U.S. large trading partner coming under intense pressure to submit entire industries, such as wood products industries, autos and auto parts, medical and telecommunications equipment and insurance, to so-called "framework negotiations", with the objective of specific targets.

39. At first glance, the dispute appeared to involve relations between two trading partners and only tangentially related to this trade policy review. However, in these days of globalization and specialization, when both the production and sale of goods had become internationalized, no nation could remain an island. Other countries were therefore forced to watch with concern the deterioration in trade relations between two of the world's biggest trading nations, and reflect on the implications of this dispute for their respective economies and for the international trading system. The sudden jerks towards unilateralism, the creeping tendency to seek bilateral solutions to trade problems and

the inadequate response of some to legitimate and long-standing demands for market opening were matters that the GATT should not ignore.

40. In fact, the genesis for the Uruguay Round negotiations seven years ago was to address these very problems. What had always been at stake was the credibility and effectiveness of the multilateral trading system and the framework of rules and disciplines. Developed and developing countries collectively had agreed to launch the Uruguay Round in 1986 with the objective of stopping the spreading disease of bilateralism and arbitrary measures from overtaking and corrupting the GATT system of liberal trade.

41. Starting from agriculture and textiles, trade management had filtered to footwear, steel, consumer electronics and even high technology sectors. The Uruguay Round therefore had become necessary to overhaul, expand, and radically reform the trading system so that the rules of competition would, once again, come into play in the market place. It was thus unfortunate that so soon after the conclusion of the Round - and even on the point of establishment of the WTO - managed trade, in its various forms, had not seemed to have lost its short-term attractions for some major trading nations. The trading partners of the United States - particularly the majors - who had benefitted from open markets and the liberal trading system, had an increasing obligation to contribute to the strengthening of the system by reducing their trade barriers, opening up their markets and taking voluntary action to trim trade surpluses. Unless this was done urgently and imaginatively, persistent trade irritations were bound to occur and arbitrary demands for corrective action liable to increase. In such circumstances, was the United States condemned to continue pursuing aggressive unilateralism in its trade policy measures? Was the concentration on seeking a reduction in the trade imbalance, even to the extent of threatening trade sanctions on an important trading partner, wise in the context of the desirability of stable and predictable trade relations in the post-Uruguay Round era?

42. The second discussant noted that in its editorial of 14 January 1994, the New York Times had pointed to some of the negative practices of one of America's largest trading partners, while outlining remedial measures, such as retaliating under international rules. The editorial cautioned against the setting of specific numerical targets. The New York Times editorial had pointed to the desirability of treating the cause of the U.S. trade deficit rather than the symptom. Moreover, with the United States coming out of economic recession and into a period of steady economic growth, with little or no threat of inflation, some of the problems that the United States currently faced with its trading partners might disappear. Under these circumstances, there was even less ground to resort to aggressive unilateralism. Instead, multilateralism, as embodied in the Final Act, should be given a chance to succeed.

43. He then turned to some of the specific trade policy measures of the United States that caused concern to GATT contracting parties. Chief among these was the issue of anti-dumping and countervailing duty actions. The Secretariat's report had pointed out that there was a growing number of complaints from trading partners concerning the increased resort to these laws and the methods used to determine dumping, subsidization and injury. It was the hope of the contracting parties that as a consequence of the changes to the Anti-Dumping Code most, if not all, of their concerns on this issue vis-à-vis the United States would disappear.

44. However, a report issued on 14 January 1994 by the U.S. Industry Policy Advisory Committee (IPAC) claimed that the U.S. Administration had stated that its understanding of the Agreement with respect to the negligibility threshold, de-minimis standard, and the averaging position was that these were applicable only to the investigation phase of anti-dumping proceedings and not to any type of review conducted after an order had been issued. Such statements were worrisome. The report also referred to a position stated by the U.S. Administration that, on the issue of representation in

anti-dumping cases, the Administration would exercise considerable flexibility in determining support and opposition in cases where labour unions came in with their views. What changes could be expected in U.S. Anti-Dumping legislation as a consequence of the recently-agreed changes to the Anti-Dumping Code?

45. On government procurement, the Secretariat report had drawn attention to the operation of the Buy American Act of 1933, as amended. Reports suggested that the "Buy American" measures accounted for nearly 70 per cent of all government procurement in the United States. What measures, over and above the commitments it had made in the Uruguay Round, did the U.S. Administration contemplate taking to reduce this high percentage of coverage.

46. Trade and environment was an issue that had begun to attract a lot of attention. The Secretariat report had noted that a number of U.S. laws and regulations to protect the environment had a potential bearing on trade. In his testimony before the Senate Foreign Commerce Subcommittee on 3 February 1994, Mr. Timothy Wirth, Counsellor to the Secretary of State, had said that the U.S. Administration was considering four categories of circumstances under which trade measures might support the U.S. environmental objectives. Could the United States elaborate on its current thinking of how its trade and environmental objectives would be reconciled or made compatible under the four categories set out by Mr. Wirth?

47. Although services were not a subject under review in this TPR, the General Agreement on Trade in Services (GATS) had become one of the significant achievements of the Uruguay Round. The sub-sector of financial services however continued to be problematic. In this regard, a bill entitled "Fair Trade in Financial Services Act" was currently before Congress. Going through a record of the hearing of the House Banking Financial Institutions, Supervision, Regulation, and Deposit Insurance Subcommittee, it was clear, said the second discussant, that the Federal Reserve Board opposed the proposed "Fair Trade in Financial Services Act", that such legislation would be negative in opening up financial services markets for U.S. firms, and that the legislation was neither desirable or necessary in the context of the ongoing multilateral financial services negotiations. Did the U.S. delegation agree with this view?

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**V. STATEMENTS BY REPRESENTATIVES OF THE COUNCIL**

48. The representative of Hong Kong considered that the United States, as a leading economic power and the world's largest trading nation, had a responsibility to demonstrate its commitment to free trade and the multilateral trading system, notably through its trade policies and trade régime.

49. Since its last review in 1992, the United States had continued to affirm its adherence to the principle of free trade, and had pursued further trade liberalization measures. Tariffs on industrial products would be reduced by some 35 per cent under the Uruguay Round. Although high tariffs still protected certain domestic industries such as textiles and clothing, the average tariff was low, and the tariff was almost fully bound.

50. The situation regarding support for the multilateral trading system was more complicated. There was no denying that the United States had played an important rôle in bringing the Uruguay Round negotiations to a successful conclusion, demonstrating the U.S. attachment to a stronger multilateral trading system. Unfortunately, it was also true that the United States had continued to rely on unilateral pressure and bilateral consultations to secure the opening of markets, particularly in Asia. Most notable amongst these were the bilateral agreements with Japan on certain industry sectors, and the so called 'Framework Agreement' that encompassed several industrial sectors, certain services industries as well as foreign direct investment. There was also talk of 'numerical targets' in the context of the Framework Agreement. In his view, numerical targets pre-supposed managed trade and efforts in this direction were a departure from the spirit of free trade and multilateralism.

51. He welcomed the less frequent use of Section 301 in the past two years. He noted that GATT was a consensus model where trade was for the mutual benefit of everybody and where persuasion and co-operation were the order of the day. The United States, in its pursuit of trade liberalization, should clearly reaffirm its commitment to the multilateral system, in particular regarding the conformity of laws, regulations and procedures and the settlement of disputes.

52. He then expressed serious reservations about the lack of implementation of the recommendations contained in a GATT panel that had found in January 1989 that Section 337 of the 1930 Tariff Act was inconsistent with GATT Article III:4. The panel report had subsequently been adopted by the GATT Council in November 1989. However, the United States had so far not taken any steps to amend those features of Section 337 that the GATT panel had found objectionable. On repeated occasions, the United States had merely indicated that Section 337 would be amended in the context of the implementing legislation for the results of the Uruguay Round. In the interim, the United States continued to initiate exclusion orders under Section 337, which affected imports from its trading partners, including Hong Kong. What concrete steps were being taken to address this?

53. Anti-dumping actions were an extremely potent instrument of which the United States was the number one user. It was difficult to expect that U.S. exporting interests, on the receiving end of such actions, would balance out the pressure from domestic industries for a protected market. Recent reports from Washington suggested that the U.S. Congress was seeking, in the implementing legislation, to introduce provisions that exceeded those necessary to implement the Uruguay Round Anti-Dumping Agreement, or which might even be inconsistent with the Agreement itself. A case in point was the talk about new anti-circumvention provisions. He strongly urged the U.S. Government to resist any such attempts and to implement the Uruguay Round results in good faith.

54. A particular area of the existing U.S. anti-dumping régime that caused serious concern to Hong Kong was the extensive use of the Best Information Available (BIA) criterion in the determination

of dumping margins. As the Secretariat report had pointed out, more than 50 per cent of the anti-dumping cases in the United States involved the use of BIA. Certain conditions had to be met before BIA could be used, as stipulated in the Anti-Dumping Code as well as in a Recommendation adopted by the Anti-Dumping Committee in 1984. Something could not be quite right if what was intended as an exception became the rule.

55. Finally, it had been noted in the Secretariat report that certain environmental protection provisions of U.S. federal law had a potential bearing on trade. Indeed, some had become the subject of a GATT dispute, such as the taxes on automobiles, and the import prohibition on tuna. In this respect, he called for a collective effort to ensure that GATT disciplines were respected and adhered to.

56. The representative of Thailand, speaking on behalf of the ASEAN countries, had heard the concern of various delegations, at the last United States Trade Policy Review, in March 1992, over the magnitude of the U.S. budget deficit and how it might lead to intensified protectionism and unilateralism. Those concerns were expressed out of fear that, should there be even a slight shift in the trade policy of a leading economic power, such as the United States, toward unilateralism, the world's trading environment would be disrupted. He observed, with some relief, that the United States' resort to unilateral action had been kept to a minimum over the past two years.

57. As the U.S. economy had recently shown signs of improvement, with growth in productivity and an expansion of exports, the ASEAN countries hoped that the United States would continue to ensure openness of its market, and that the budget deficit reduction package passed into law in August 1993, together with the conclusion of the Uruguay Round, would have the effect of strengthening the U.S. economy and further boosting U.S. merchandise exports.

58. Massive export subsidies provided for certain agricultural products, through various programmes under the Farm Act, had distorted world trade in agriculture. Developing countries such as ASEAN were not in a position to engage in a subsidy competition, but knew the distortive effects on world trade of subsidies. He noted with concern the negative effects of the 7 per cent increase in U.S. agricultural export assistance on international farm prices and incomes. He had learned of the recent U.S. sale of some 10,000 tons of high-grade rice at a subsidized low price. The sales of such subsidized rice would have a deleterious effect on the rice market. He hoped that, with the multilateral agreement on agriculture now in place, a fairer régime for trade in agriculture would be created, and urged the United States to exercise self-restraint in the meantime.

59. He had noted from the Secretariat report that under the terms of the NAFTA, "access by Mexican exporters to the restricted U.S. sugar market would be liberalized over a 15-year transitional period in the case of raw sugar and within ten years for refined sugar." Mexico's current quota was currently about 7,000 metric tons, and NAFTA provisions on sugar would allow it to ship 150,000 metric tons of raw sugar to the United States if it became a net surplus producer in the seventh year of the agreement. ASEAN, some of whose members were traditional producers and exporters of sugar to the U.S. market, wished to register its concern over these developments and strongly urged the United States to preserve the access of historical suppliers to its market for this commodity.

60. Over the past five years, ASEAN's exports to the United States had encountered numerous anti-dumping and countervailing duty actions. The ASEAN contracting parties feared that these investigations might have been initiated because of the rising trend in imports rather than for the legitimate reason of unfair sales. Anti-dumping and countervailing duty measures were not to pose obstacles to fair trade. Investigations, once initiated, created uncertainty and imposed considerable legal costs on the respondents.

61. There was a tendency, he added, for the United States, to link eligibility of the GSP to worker rights. It had always been ASEAN's view that no country should try to impose its own standards and values upon others. Each country had its own system of values and adopted the standards commensurate with its level of development. He hoped that the new U.S. GSP programme would not be highly restrictive and would not pose difficulties to beneficiary countries on account of non-trade concerns.

62. The ASEAN countries very much deplored recent U.S. legislation that limited the use of imported tobacco by domestic cigarette manufacturers. This unfortunate situation had come at a time when the international community was about to conclude a more liberal trade régime under the Uruguay Round. The requirement that U.S. domestic manufacturers maintain a minimum use of 75 per cent of locally produced tobacco in their products clearly contravened U.S. obligations under the GATT. Exports of tobacco from ASEAN countries, among others, to the United States would be adversely affected by such a restrictive measure.

63. Lastly, those countries made subject to Section 301 of the Trade Act of 1974, or even the threat thereof, fully realized the strongly destabilizing effects of such measures. ASEAN countries were taking steps to adopt measures towards improved intellectual property protection. Certain ASEAN countries had also concluded bilateral understandings with the United States on intellectual property and had implemented commitments pursuant to such understanding. These countries should be delisted from the "Special 301" watchlist. Moreover, as the Uruguay Round had been concluded, future disputes should be settled only through the strengthened dispute settlement mechanism under the WTO.

64. The representative of the European Communities first proposed that, after each trade policy review, the Director General should transmit both the report and the concluding remarks of the Chairman to the government of the reviewed contracting party, in order to ensure follow-up. Secondly, the trade policy reviews conducted during a year should allow the Director General to provide a precise evaluation of the state of the multilateral trading system in his annual report.

65. He considered the United States to be committed to free trade, with trade playing a prominent rôle in the country's economic development, even if protectionist pressures continued to slow the economic recovery. While efforts to reduce the budget deficit were real, the trade deficit continued to expose the Administration to Congress' short term vision, notably in the case of Japan. The U.S. current account showed that there was no alternative to a continued reliance on foreign capital.

66. He welcomed the NAFTA, which he hoped would imply liberalization for the rest of the world as well as its parties. He congratulated the U.S. Administration on its efforts in the Uruguay Round. It was time that Congress fully accepted the principles of the World Trade Organization as the foundation of all trade legislation, and subject all disputes on subjects covered by the WTO to its dispute settlement mechanism.

67. He pointed to the continued albeit reduced use of Section 301, "Special 301" and Title VII of the 1988 Trade Act. Extra-territoriality in U.S. legislation had led to the introduction of unilateralism in the principle of national treatment, to the point of replacing it by conditional and reciprocal national treatment. Also, was it acceptable to apply the Cuban Democracy Act to third countries?

68. Regarding specific trade policy measures, he joined previous speakers in condemning the use of anti-dumping and countervailing duty procedures for protective purposes, notably in the recent steel cases; the Berry Amendment was detrimental to both U.S. competitiveness and taxpayers; the bilateral agreement on telecoms with Korea exclusively favoured U.S. suppliers; Section 337 of the Tariff Act was still in breach of the GATT; tariff peaks ranged from 36 per cent to 60 per cent on footwear,

32 per cent on certain clothing, and 38 per cent on glassware. He added that the EC Commission had submitted 27 questions in writing to the Secretariat.

69. He questioned the United States about the U.S.-Japan Framework for a New Economic Partnership; the accompanying threat of sanctions highlighted the worrying nature of the goals being pursued. Any cure to trade deficits outside the principles of the GATT and the WTO would be worse than the disease.

70. The representative of New Zealand welcomed several of the key developments in U.S. trade policy in the last two years, most notably the recent commitment to strengthen APEC, the ratification of NAFTA, and President Clinton's commitment to concluding the Uruguay Round, in December 1993. On the bilateral side, the United States/New Zealand Trade and Investment Framework Agreement (TIPA) of October 1992 was seen as a valuable instrument, designed to consolidate the trade and economic relationship between the two countries. New Zealand looked forward to further work in this context in the post Uruguay Round environment.

71. The objectives set out in the first paragraph of the Government report were a yardstick against which to assess U.S. trade policy. Among other things, it stated that the fundamental objectives of the United States included a reduction in trade barriers and expansion of international trade, based on the belief that open, market-based competition would lead to the growth of the most competitive sectors of the U.S. economy. New Zealand trusted that in the liberalized post-Uruguay Round environment these objectives and principles would be applied as fully as possible.

72. In the period under review, U.S. trade policy had made a positive contribution to maintaining an open, market-based international trading system. But there were areas where practice fell short of best intentions, such as agricultural trade. Systematic annual reductions in New Zealand's beef access to the U.S. market had taken place over this period. The OECD estimated that the U.S. PSE for beef and veal had risen substantially between 1990 and 1992. The use of government measures to assist U.S. exports had intensified during the review period. Agriculture received the bulk of this support (75 per cent of total export subsidization expenditure).

73. New Zealand had felt the adverse effects of these subsidy measures through the increased competition in many of its key markets from subsidized dairy exports under the DEIP and the mandated CCC dairy sales, frequently coupled with generous export credit guarantees. There was no question that the programmes had contributed to lower returns to unsubsidized producers. He welcomed the Uruguay Round commitments in this area, but urged that the programmes not move towards targeted market development, or be extended into new markets or regions. He disagreed with the U.S. view that the impact of the DEIP was small. A country such as New Zealand could indeed be adversely affected, as noted in the Secretariat report.

74. Finally, he welcomed the opportunity of the U.S. TPR, in that it provided timely review and regular information of the latest developments in that country's trade policies.

75. The representative of Finland, speaking on behalf of the Nordic countries looked forward to prompt U.S. enactment of the Uruguay Round implementing legislation. He joined previous speakers in expressing concern both about U.S. anti-dumping and countervailing duty actions and the U.S. "multitrack strategy".

76. The United States had remained in most respects an open and transparent market. Nearly all tariffs were bound at low levels, albeit with significant exceptions in the areas of agriculture, textiles

and clothing. These high tariffs were to be lowered as a result of the Uruguay Round. Given the size of the U.S. market, one should not underestimate the impact of these facts on the trading system as a whole.

77. The methods used by the U.S. Government to open export markets and to protect domestic markets had a contrary effect to their stated objective. In his view, neither the sectoral or the retaliatory approach to open markets would assist growth or facilitate the replacement of outdated economic structures. The sectoral approach included such measures as steel arrangements and the semiconductor and auto-component agreements with Japan. The retaliatory approach included bilateral responses to so called unfair trade practices, including anti-dumping duties, countervailing duties, as well as unilateral measures alien to the multilateral trading system. Bilateral market opening measures in specific sectors based on numerical targets did not reinforce market-economy principles, and contradicted GATT principles.

78. The number of anti-dumping and countervailing investigations had increased, reflecting the end of VRAs on steel. The share of U.S. imports affected by final orders had increased, and the scale of correction between preliminary and final margins could be considerable. The effects of preliminary decisions could in themselves force a supplier out of the market. Maximum restraint should therefore be shown in order to safeguard a predictable trading environment and equal competitive opportunities. He hoped the Uruguay Round would lead to a more careful application of these instruments.

79. Despite the absence of maritime construction subsidies since 1982, the user prohibition embodied in the Jones Act could be just as effective and easier to enact as it implied no direct burden on the budget. The economic efficiency of such legislation could be negative, as the hidden costs were heavy both for consumers and for the industry. He urged the United States to review the costs and benefits of the Jones Act.

80. Finally, he thought it urgent to bring about an internationally agreed framework to deal with the questions arising at the interface between trade and environment. Preparatory work was already under way in different international organizations, not least in GATT. The United States should continue its efforts to integrate trade and environment policies, in order to render unilateralism ineffective.

81. The representative of Turkey noted that dispersion persisted across the tariff range; tariff peaks were concentrated in food, beverages, tobacco, glass and ceramics, as well as in textiles and footwear. The cumulation of anti-dumping and countervailing duties had resulted in duties of over 100 per cent. New investigations had adversely affected many exports to the United States. The share of cases resulting in final affirmative determinations was higher for developing than developed countries. In 1992, certain steel products were removed from the GSP programme. The envisaged Multilateral Steel Agreement (MSA) should not only aim at eliminating subsidies in international trade, but should take into account the different levels of development of the member countries. Special circumstances should thus be taken into consideration for the agreement to be multilateral. One of the major incentives to enter into these negotiations was to avoid the abuse of anti-dumping procedures in this sector.

82. The Omnibus Budget Reconciliation Act of 1993 imposed a local tobacco content requirement for U.S. manufacturers of cigarettes. This not only had negative effects on imports of burley and flue-cured tobaccos, but might also inhibit U.S. imports of oriental and Turkish tobacco. The consistency of this measure with GATT provisions would be examined in the relevant panel.

83. The representative of Hungary recognized the major rôle played by the United States in the successful conclusion of the Uruguay Round. The U.S. authorities had followed very ambitious

negotiating objectives in the different areas, and a careful reading of the results suggested that the final package was in several respects very close to U.S. positions. He expected the United States to be one of the major beneficiaries of the emerging expanded multilateral trading system. The recently improved U.S. economic situation and the conclusion of the Uruguay Round should help the authorities in resisting pressures for protection. He joined others in welcoming the NAFTA, and looked forward to the examination of its compliance with the GATT and of its likely effects on third countries' trading interests. He also shared other's views on the extensive use of anti-dumping and countervailing duty laws.

84. He pointed to the adverse effects of agricultural export subsidies on world prices and on trade. The first victims were innocent third parties which had to compete with U.S. subsidized exports, for example in countries of the former Soviet Union. This made access to a traditional market substantially more difficult, prevented exporters from receiving a reasonable price for their products, and added to the real difficulties of winning new markets. These subsidies conflicted with the stated U.S. intention of assisting countries like Hungary to transform their economies. Hungarian exporters were severely hit, and he hoped that the Uruguay Round results would contribute to ameliorating the situation.

85. Following radical political and economic changes in Hungary, the United States had granted Hungary unconditional m.f.n. treatment since April 1992. He urged the United States to disinvoke the application of Article XXXV vis-à-vis Hungary. Meanwhile, the Hungarian authorities highly appreciated that the United States had made Hungary a beneficiary of their GSP programme in 1989. This had been the most efficient and direct way to improve opportunities for Hungarian exports. Some 50 per cent of Hungarian exports to the United States were eligible for GSP. He hoped that the list of eligible products would be increased in the future.

86. The representative of Korea was of the view that this review warranted particular importance, particularly given the imminent establishment of the WTO, which would have a significant bearing on the conduct of international trade for all countries including the United States. He joined others in welcoming the NAFTA, the U.S. leadership rôle in APEC and the continuing U.S. support for the multilateral trading system. There were unfortunately frequent contradictions between the general U.S. policy direction and its specific trade tools and sectoral policy measures; problems raised in earlier TPR exercises remained a cause of concern.

87. The recent interest in the revitalization of "Super 301", and the proposed Fair Trade in Financial Services Act, with its reciprocity element, were examples of the continued tendency of the United States to assume the mantle of trade policeman. Unilateralism had no place under the GATT or the WTO. The 301 family of laws should be brought into conformity with multilateral rules; this would be watched closely. He shared previously expressed views on anti-dumping, and urged the United States to rewrite its anti-dumping laws in the context of the Uruguay Round, in order to avoid any future abuse.

88. On rules of origin, the volume of documentation required for U.S. textile imports, purportedly for the prevention of circumvention, was an example of the complexity of origin determination. This system caused uncertainty and inconvenience to exporters. Greater transparency was needed in this area. He also called for U.S. customs user fees and harbour maintenance fees to be reformed, as these had certain trade distorting effects.

89. The representative of Canada noted the significant evolution in the trade environment since the last review of U.S. trade policies, as well as the strong rebound in the U.S. economy. This rebound, promoted by the growing rôle of international trade refuted the common perception that the United States was losing out in global competition. Imports and investment had also contributed to U.S. competitiveness, a factor often overlooked in the focus on exports.

90. The United States had achieved many of the priorities set out in the Government report. It had also made some important compromises to reach a consensus in the Uruguay Round on such issues as agriculture, dispute settlement and the WTO. The representative of Canada looked forward to early adoption of the legislation implementing the Final Act. He also acknowledged the sensitivity shown by the United States to the Canadian problem of sub-national specificity in the Subsidies Code negotiations.

91. He called for restraint in the use or strengthening of protectionist or trade-distorting measures in the expectation of the WTO, even if those measures were permissible under existing rules. Protective agricultural policies, such as Section 22 of the Agricultural Adjustment Act, continued to restrict competitive imports, notably sugar and milk. Recent Section 22 investigations on peanut butter and wheat had coincided with the agreement on the Uruguay Round, while restrictions on tobacco imports were currently being examined in GATT. He joined others in deploring the effects of the Export Enhancement Programme, whose funding had reached US\$1 billion per year, with subsidy rates for wheat of up to 97 per cent. The EEP applied to 60 per cent of U.S. wheat exports; its coverage had been expanded in 1994 to 29 million tonnes of wheat, and now included new countries such as Mexico, a traditional Canadian market. He urged the United States to abandon the EEP, or at least limit its application to markets spoiled by EC subsidies.

92. There was frustration over the lack of progress made in implementing the 1992 GATT panel report on the sale and distribution of beer; he hoped that state legislatures would soon adopt the required corrective measures, and that measures would also be taken at federal level.

93. He reiterated previously stated concerns about U.S. use of anti-dumping and countervailing laws. These laws were being misused to harass foreign competitors and restrict trade. The definition of a subsidy had been expanded unilaterally; the calculation of dumping had been manipulated, and ensuing protection could remain in place for an unlimited time. A GATT panel had agreed with Canada that the United States had acted outside its GATT obligations in imposing an interim bonding requirement under Section 301 in the countervailing duty case against softwood lumber.

94. The number of anti-dumping duty orders (268) was also revealing. The share of imports affected by anti-dumping and countervailing investigations had almost tripled between 1988 and 1992, while the share of imports subject to orders had nearly quintupled, indicating an increase in the degree of protection provided to the domestic industry. Moreover, the increase in the share of "no injury" findings suggested either that the Department of Commerce, in accepting petitions, or the International Trade Commission in its preliminary injury determinations, had lowered their standards. The cost of defending the right to the U.S. market was so impressive that small and medium firms were obliged to abandon the battle of appeal. This was eroding market access that had been bought and paid for through tariff reductions and bindings.

95. On government procurement, while the United States had offered coverage in 27 States for the first time, this market access remained voluntary, highly conditional and could not be accurately valued. A relaxation of Buy American restrictions and set-asides for minorities and small businesses was not on the table. Legislative restrictions in areas such as construction materials and transportation rolling stock still remained.

96. The U.S. Administration had deliberately avoided endorsing national treatment of foreign direct investment in favour of increased reliance on the principle of reciprocity, a recent example being the guidelines prohibiting the Department of Commerce from promoting the export of products made in the United States if the manufacturer was foreign-owned. This questioned U.S. adherence to the principle

of national treatment. Also, national security considerations were increasingly put forward to restrict foreign investment in a growing range of sectors. National security seemed to extend to economic security in certain instances.

97. Canada was also concerned by the extra-territorial application of some U.S. legislation, such as the Cuban Democracy Act and Section 7(1) of the Anti-trust legislation (HR 1313). In the first case, Canada had found it necessary to use available blocking legislation to constrain application in Canada.

98. He looked forward to co-operation with the United States in matters covered by the Final Act, such as service sector negotiations, as well as the new generation of trade issues such as labour standards, competition, investment and the environment. The United States was asked to define trade and labour standards before inviting others to the negotiating table.

99. The international trading system would be weakened if the United States were to turn to managed trade strategies. The new agreements with Japan, the bilateral telecommunications agreement with the Republic of Korea and the memorandum of understanding on procurement with the EC were serious causes of concern. He asked for more details on the recent discussions on the U.S. - Japan Framework Agreement.

100. The representative of Switzerland shared the concern regarding managed trade. New procedures to enforce "Special 301" actions had been introduced, in the form of "immediate action plans" and "short term review cycles". He welcomed the commitment of the United States to economic liberalism and fundamental GATT principles, notably in the Uruguay Round.

101. Reciprocity was apparent in the recent "advocacy guidelines" regarding official support for American commercial representatives abroad. The latter, according to these guidelines, could refuse to support trade involving U.S. products, when the company was foreign-owned, or if no reciprocity was given to U.S. firms. Similarly, under the Energy Policy Act, foreign participation in projects financed by the Department of Energy was subject to reciprocity conditions. Such reciprocity conditions did not take into account the absorption capacity of smaller and developing countries.

102. Under the NAFTA, origin was determined on the basis of tariff shift, but regional content requirements were applied in sectors where the tariff shift criterion alone did not guarantee that the benefits would be limited to NAFTA producers. He asked whether effects of the NAFTA, and of these rules on international trade had been evaluated, notably in the textile sector. New origin rules had been developed in 1990, which replaced sector specific rules of origin for textiles by general non-specific rules. Was the "yarn forward" rule of origin for textiles based on the 1990 standards?

103. The Exon-Florio amendments to the 1988 Omnibus Trade and Competitiveness Act allowed the President to prevent acquisition of U.S. firms by foreign investors for national security reasons. What were the criteria used to determine whether foreign investment threatened national security? Did they differ from those applied to imported products?

104. The representative of Mexico noted that the United States was in the third year of economic growth. This had allowed unemployment to fall by 1 per cent from its high in June 1992, while inflation remained stable, despite the fact that all other developed countries were still in recession. The decisiveness in reducing the fiscal deficit was shown in the approval of the 1993 budget packages. This deficit was not only unsustainable, but constituted the greatest obstacle to greater savings in the United States, as well as preventing a reduction in long term interest rates, and slowing the recovery

of world economic activity. A lower U.S. fiscal deficit should contribute to decreasing the external current account deficit.

105. He noted the greater level of intervention by the new Administration, in order to compensate for micro- and macroeconomic imbalances, highlighted by problems of productivity, competitiveness, health and education. He asked for more details on the planned regulatory measures, and their possible impact on trade.

106. He pointed out the important U.S. rôle in the Uruguay Round, and its attachment to the multilateral trading system. This contrasted with certain practices of the United States and others, best described as managed trade. Such practices were based on the notion of "legitimate" market participation, with consequent imposition of numerical targets. These overlooked sectoral adjustment in the various markets. Managed trade did not come to grips with the real problems, was dangerous and discouraged the normal adjustment of world trade. Was it the intent of the U.S. authorities to put to Congress as soon as possible the package related to the Uruguay Round negotiations, as this would provide a stimulus to international trade?

107. The representative of Argentina shared the U.S. view that the objective of trade policy was to ensure economic growth and employment, by reducing barriers to trade and open international competition based on market rules. In 1992, total transfers to producers in the United States reached over \$91 billion, \$33 billion of which were producer subsidies. Although cotton oil and sunflower oil assistance programmes had no funds allocated to them in the executive's package recently presented to Congress, the DEIP, mandated export sales of dairy stocks, cotton mills, and similar measures would continue to be enforced. The EEP was being used in non-subsidized markets.

108. The CCC was the only case of State trading in the United States; its deficit was high, with an accumulated debt of US\$33 billion. The CCC's export activities were in practical terms a subsidy. He regretted that export credit guarantees were not covered by the Uruguay Round package. Presently active programmes included price support, income support, supply management, marketing orders, programme loans, marketing loans, target prices and deficiency payments. Section 22 restrictions on sugar were a cause of concern.

109. He shared the concerns previously expressed about U.S. anti-dumping and countervailing duty actions. Some 46 per cent of the investigations concluded with no injury findings, while the freezing of exports was patent. Commercial fragmentation was highlighted by the fact that 40 per cent of U.S. trade was conducted outside m.f.n. conditions. Certain measures to open markets were blatant unilateralism: the Secretariat had noted that Japan extended credit on condition that 10 per cent of imports were U.S. sourced. He asked when a Section 301 action would or would not be used once the Uruguay Round Agreements came into force?

110. The representative of Australia agreed with the European Communities that the Trade Policy Review Mechanism should be strengthened. Trade policy reform in the larger trading countries was generally undertaken only in the context of negotiations where reciprocity could be secured. Some reforms should be undertaken for their own sake. The United States had played a positive rôle in the Uruguay Round, *inter alia*, in securing comprehensive tariffication in agriculture. This would remove non-tariff barriers to trade in agriculture, including those under the longstanding U.S. GATT waiver and the U.S. Meat Import Law. Reductions in export subsidies would alleviate the major problems experienced by Australian exporters and others.

111. The U.S. industrial tariff reductions, with an overall average trade-weighted cut of 35 per cent, was substantial, as had been the rôle of the United States in securing a new framework for trade in services. The conclusion of the NAFTA also was a contribution to trade liberalization, although there would almost certainly be trade diversion effects. As further countries became involved, care had to be taken not to weaken the multilateral trading system and restrain overall economic growth. He welcomed the U.S. participation in APEC, which was seen as supporting and enhancing the multilateral trading system, and not as being discriminatory or inward-looking.

112. He joined others in commending the fairly liberal access to the U.S. market, but repeated previously mentioned concerns regarding the EEP. Recently, this programme had been extended to China (for barley and malt) and Korea (for malt), with depressing effects on prices. He urged the United States to resist both pressures to target particular markets and to extend EEP sales to new markets. The DEIP was planned to operate until 1995. It had been extended to the Asia-Pacific region where EC presence was minor. Its product coverage had been twice extended in 1992, to cover gouda, mozzarella and cream and American processed cheeses. Did the United States intend to cut back the DEIP for 1994 in preparation for the agreed export subsidy reductions commencing in 1995? Would the United States ensure that efficient market-oriented dairy exporters would not be hurt by the 1994 DEIP?

113. U.S. sugar policy was a subject of considerable concern, where the Uruguay Round had not resulted in meaningful reform or trade liberalization. U.S. imports of sugar had declined dramatically since quotas were introduced in 1982. From 320,000 tonnes on average during the ten years before the introduction of quotas, Australian annual sugar exports to the United States had declined to 123,000 tonnes a year on average during the ten years following the quotas. Australia's quota for the 1992/93 and 1993/94 marketing years had been tightened, and could be reduced further as a result of the NAFTA. He called for liberalization of the U.S. sugar market.

114. Regarding the U.S. anti-dumping measures affecting an Australian steel company, he asked how the company's share of less than one per cent of the U.S. market for galvanized steel could possibly cause material injury, especially as much the same level of trade was regarded as acceptable under the previous VRAs. Australia shared concerns that the U.S. steel industry was misusing anti-dumping procedures to obtain additional protection. Were there plans to recommence negotiations on the MSA? More generally, was the U.S. Administration intending to review its current procedures to address the considerable scale of correction between certain preliminary determinations and the ensuing final determinations?

115. Australia had been named on the U.S. "priority watch list" under Special 301 regarding some aspects of television broadcasting, advertising and copyright protection. There was no justifiable reason for such listings, particularly as the U.S. film and television industry had always held a dominant place in the Australian market; the provisions did not in practice limit commercial opportunities. Access was very generous, and Australia would have been very pleased to enjoy comparable access to the U.S. sugar market.

116. Japan and the United States were Australia's two most important trading partners, and their economic relationship the most important in the region. U.S. - Japan discussions on trade issues were therefore of particular interest, including those under the Framework Agreement. An open trading system based on non-discrimination was vital, and managed trade, such as the setting of quantitative targets for bilateral trade, would be strongly opposed. Trade disputes should be instead taken up under the auspices of the GATT. Unilateral managed trade solutions ran the risk of prompting similar measures by other countries.

117. The representative from Brazil recognized the large degree of openness of the U.S. economy. This had benefitted the United States itself, as witnessed by its restored international competitiveness; particularly strong in sectors with minimal levels of government intervention. Agriculture was an important exception to that rule, as highlighted by the recent measures on tobacco. The extensive use of anti-dumping and countervailing duty actions appeared to abuse the provisions of the Codes. These measures raised actual tariffs considerably, and stayed in place for many years. He called for solutions to these problems in implementing the new anti-dumping and countervailing duty provisions negotiated in the Uruguay Round.

118. References in the press to "retaliation" and "trade wars" led him to ask why some of these issues had not been taken up in the Uruguay Round negotiations. The U.S. "multitrack" approach was fine provided that all the tracks were compatible, including with GATT and WTO rules. When this was not the case, the approach might do more harm than would be expected from the stated objectives of free trade.

119. The representative of India congratulated the United States for its crucial rôle in the Uruguay Round. Average tariffs were low and mostly fully bound. There were no outstanding safeguard measures under GATT Article XIX. He was of the view that regional trading arrangements had more potential for trade diversion than trade creation and inevitably resulted in a decline of trade conducted on an m.f.n. basis. The continued pursuit of unilateral measures to expand U.S. exports ran counter to the rules-based multilateral trading system. India had the dubious distinction of being named a "priority foreign country" under the "Special 301" provisions relating to intellectual property. It would be a cruel irony if the United States persisted with such measures in the post-Uruguay Round scenario. He joined others in urging the United States to deal with such issues under the WTO.

120. GSP concessions by the United States continued to be linked to investment policies, intellectual property rights and workers' rights. Since the last review, India's GSP coverage had been reduced under "Special 301" retaliation; this negated the fundamental principles of the Enabling Clause.

121. Textiles and clothing trade was affected by significant trade intervention in the form of high tariffs and tariff peaks, heavy reliance on bilateral restrictions, measures to restrict circumvention and, lately, stringent rules of origin. Increased and unhindered access to the U.S. market was crucial for countries such as India that had undertaken far-reaching economic reform programmes in the domestic context. He shared the view of others on the use of anti-dumping and countervailing duty measures to grant protection to domestic industries.

122. The representative of Romania welcomed the continuous affirmation by the United States of its adherence to the principles, rules and disciplines of the multilateral trading system. This had recently been confirmed by the U.S. contribution to the successful conclusion of the Uruguay Round. Recent strong signals of economic recovery should further encourage trade liberalization, transparency and fair treatment in U.S. trade policy, in line with the global objectives of the post-Uruguay Round multilateral trading system.

123. Bilateral economic relations between Romania and the United States had improved, due to the normalization of the legal economic framework between the two countries. There was great potential for the rapid future development of these relations, particularly by securing a higher degree of predictability and stability. He had in view the extension of m.f.n. status to Romania in accordance with Article I of the GATT, as well as the non-discriminatory application of the U.S. GSP to all central and eastern European economies in transition.

124. He joined others in calling for the fair application of anti-dumping measures to Romania and other economies in transition, taking into account the elimination of central planning and state trading monopolies and the introduction of market-economy mechanisms. Romanian exports of certain steel products had, in his opinion, been artificially subjected to anti-dumping duties. Such further positive steps in U.S. trade policy could confirm the declared U.S. support for fundamental economic transformation in the former communist countries.

125. The representative of Chile considered that the United States played a key rôle in multilateral trade. The NAFTA was probably the most important change in U.S. legislation since 1990; it was the beginning of more geographically ambitious integration. He also welcomed APEC, the renewal of the GSP authority in July 1993, and the economic recovery in the United States and its effect on world markets. In the Uruguay Round, U.S. offers were noteworthy, but he hoped these would be further improved in the area of textiles. Continued restrictions on imports of alcoholic beverages were unfortunate, as a commitment to lower such restrictions would have encouraged other developed countries to do likewise. In the service sector, he welcomed the work carried out by the United States.

126. The use of unilateral trade measures under Section 301 in areas where multilateral rules existed, was regrettable. There should be more extensive resort to multilateral rules, and unilateral measures should be abandoned. Anti-dumping and countervailing duty measures generated both uncertainty for exporters and unforeseen costs. In a large number of cases, injury could not be determined. He then referred to the recent GATT dispute on tobacco imports.

127. He saw difficulties in drawing a clear line between quality control on feedstuffs, under the "Hazardous Analysis Critical Control Programme", designed to ensure better health and sanitation conditions in such products and trade protection. He understood that the system was currently applicable only to seafood: to what products, and within what time frame, would the United States extend the programme? On export subsidies, how could maintenance of the EEP be reconciled with the strong U.S. position against subsidies in the Uruguay Round? Distortions created by U.S. policies, given its size, were considerably more important than those generated by policies of smaller countries.

128. The representative of Poland noted the positive economic and trade performance of the United States during the last two years, particularly the evident signs of economic recovery. Positive real GDP growth rates in 1992 and 1993, declining unemployment rates and moderate inflation rates were encouraging signs for the world economy. He hoped that these developments would help revitalize international trade. He welcomed the U.S. commitments in the Uruguay Round. He added that U.S. anti-dumping actions against some steel products had a strong negative impact on steel industries in a number of countries, including those undergoing the transformation process, such as Poland; these actions did not provide new democratic governments with a model of economic and trade policies.

129. High tariff and non-tariff measures remained in several sectors such as footwear, wool, man-made fibres and filaments. Even with the implementation of the Uruguay Round results, protection in these areas would still remain substantially above the average in manufacturing. There had been insufficient progress in opening up the important sector of maritime services. U.S. efforts in liberalizing COCOM-related export restrictions were appreciated, and would stimulate trade in high technology products.

130. Finally, he sought clarification of U.S. practices relating to specific border charges imposed on some foreign products lacking precise marks of origin. Polish exporters had complained about the practice of imposing a 10 per cent ad valorem charge on articles failing to meet the marking

requirements, based on the Tariff Act of 1930. Were such practices still in force and, in the U.S. view, did they comply with the provisions of Article X of the GATT?

131. The representative of Japan joined other speakers in paying tribute to the leadership of the United States, which had been vital for the successful conclusion of the Uruguay Round. Actual trade policies should be formulated and implemented in line with the principles agreed in the Round. The mere establishment of the WTO would not alone ensure a free multilateral trading system. The actual trade policies of member countries, in particular the United States, were of critical importance. It was, therefore, very opportune to examine closely the trade policies of the United States.

132. Many delegations would be either concerned or interested in the outcome of the February Summit meeting between Prime Minister Hosokawa and President Clinton. No agreement had been reached in the sectoral talks under the Framework between the two countries in the previous week. According to Prime Minister Hosokawa's press statement, "As to the sectoral issues, or the framework talks, our respective positions regarding the relationship between the objective criteria and the numerical targets did not converge". The Japanese Government did not, could not and would not agree to set up numerical targets. The principles of the WTO should be translated into actual trade policies. Members could not and should not engage in managed trade, which contradicted free trade and free market principles. To set up numerical targets was nothing but managed trade.

133. He was sure that the United States would honour the rules of the WTO dispute settlement mechanism, and therefore, it should not be necessary to worry about the possible threat of unilateralism. He urged the United States and other parties to the NAFTA to notify the Agreement promptly, so that a Working Party could examine its consistency with GATT Article XXIV. In particular, he was concerned by the automotive local content requirement of 62.5 per cent, which was higher than that in the U.S.-Canada FTA. He regretted the absence of a sunset clause in current U.S. anti-dumping laws. He reiterated concern that American firms tended to resort to "quick fix" solutions for import relief, by simply filing anti-dumping complaints. He hoped that the United States would fully review and terminate those measures. Despite Japan's plea in the previous TPRM two years ago, and despite the recent government procurement negotiations, Buy-American measures remained intact in many parts of the United States. He hoped that such clauses would be abolished as soon as possible.

134. On intellectual property matters, Japan urged the United States not to resort to Section 337 actions until that section conformed to the GATT. He added that the recent announcement by the United States to stop preparatory work to replace the "first-to-invent" system by the "first-to-file" system was very discouraging; he asked for clarification from the U.S. delegation on this point. He stressed that it was of critical importance that the United States should not take any unilateral actions in the area of trade and environment related measures. Log export restrictions in the western continental part of the U.S. should be abolished: as these logs were available to domestic processors, such a measure could not be justified on environmental grounds.

135. The current m.f.n. tariff of 25 per cent on trucks was a by-product of the "chicken war" with the EC in the 1960s. Such a retaliatory measure should be revoked since its original purpose did not warrant it any longer. Further, multipurpose vehicles and minivans had been reclassified as trucks, subject to the rate of 25 per cent instead of 2.5 per cent. This measure was not consistent with the GATT, and therefore should be repealed immediately.

136. The representative of the Czech Republic stressed the constructive manner in which the United States had developed its trade policy relations with his country. The period since the last U.S. review was an important stage in the two countries' relations. After intensive and finally successful

consultations under GATT Article XXVIII, the two countries of the former Czechoslovakia had in November 1992 normalized their bilateral relations in the General Agreement through a resumption of all GATT rights and obligations between the parties. He stressed the important positive rôle played by the United States in the process of accession of the Czech and Slovak Republics to the General Agreement.

137. He had noticed with pleasure that the U.S. GSP programme had been extended to the Czech Republic. He hoped that it would be possible to expand the GSP to other products that were traditionally exported to the U.S. market, such as Czech glassware. Simultaneously with other parties he expected that the United States would show greater flexibility in increasing textile quotas and would follow procedures agreed in the Uruguay Round. He noted that in the textile sector tariff reductions did not correspond fully to the overall degree of liberalization in the Round.

138. The representative of Cuba deplored the U.S. trade policy embargo against his country. Recent developments suggested positive developments in U.S. trade policies. Unfortunately, there was no change vis-à-vis Cuba. A reburgeoning of the trade and commercial blockade, that had been going on for more than 30 years, was now affecting normal trade relations between Cuba and other contracting parties. Given the non-conformity of the embargo with GATT standards, he called for an examination of its consequences on international trade.

139. Developments since the last U.S. review included the decisions adopted by majority vote in the 1992 and 1993 sessions of the United Nations General Assembly. At the end of 1992, the so-called Torricelli Act had strengthened the trade embargo, with a pronounced extra-territorial nature forbidding normal trade by third countries with Cuba. This legislation specified various sanctions against countries engaged in trade with Cuba. The Presidential declaration to apply this law had been issued in July 1993. The cornerstone of U.S. policy vis-à-vis Cuba would continue to be the trade embargo and the total isolation of Cuba. Cuba considered these actions to be inconsistent with U.S. rules and obligations under the GATT and reserved its right to initiate such procedures as it deemed necessary and at a time it deemed appropriate. The representative of Cuba hoped that his remarks would be incorporated in the conclusions of the TPR exercise.

140. The representative of Cyprus noted that one of the stated objectives of U.S. trade policy was "to support economic growth and the creation of job opportunities through reduction of trade barriers and the resulting expansion of world trade". Further, "domestic economic measures designed to improve the international competitiveness of U.S. firms were also seen as an integral part of trade policy". Given that U.S. firms were among the most important transnational groups, what relation was there between the performance of U.S. firms abroad and U.S. trade policy guidelines? In particular, what co-ordination was there between the domestic export production process and exports produced by U.S. firms abroad? Was there a consonance between the international integration of production and the international integration of policies? Were imports falling under intra-firm trade considered as foreign imports in U.S. statistics? What was the share of this type of trade in total U.S. imports? Which were the main executive bodies responsible for trade policy formulation in the area of transnational firms? She asked what rôle was played by the National Economic Council, established in January 1993. Finally, the considerably larger value of capital movements relative to trade flows raised the question of their relationship, which should be taken into account in the economic policy-making process.

141. The representative of Colombia stressed that the recovery of the U.S. economy was related to export growth, and in particular to the openness of developing countries. There were still sectors of the U.S. economy in need of adjustment, such as textile, clothing and industrial leather, while other recent laws protecting raw tobacco producers had a negative impact on her country.

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VI. REPLIES BY THE REPRESENTATIVE OF THE UNITED STATES AND ADDITIONAL COMMENTS

142. The representative of the United States responded to the points made along three main lines: (1) the context for and motivations behind American trade policy; (2) the impact on U.S. trade policy of the global move towards a more rules-based, market-oriented trading system; and (3) the coherence of the American multitrack approach. A detailed written response had been prepared for most of the written questions and would be made available.

Context for and motivations behind American trade policy

143. The interventions of a number of speakers had shown a basic misunderstanding of U.S. motives in trade policy. Some seemed to feel that the principal policy objective was the substantial reduction or elimination of trade deficits - particularly those with higher domestic savings rates countries. These speakers were wrong to believe this. The use of trade policy instruments in the United States, whether multilateral, regional, bilateral or even "unilateral" was motivated by a desire to solve specific trade problems and open others' markets. The United States understood what caused deficits and the limitations of trade policy as a tool for correcting them.

144. The principal objective of U.S. trade policy was to reap economic gains, for itself and its trade partners, from the reduction and elimination of global barriers to trade. The successful expansion of a market-oriented, rules-based system held the promise of greater efficiency in U.S. and global production, more incentives for productive investment, and enhanced economic growth, employment, labour productivity, real wages, consumer purchasing power and living standards. The economic benefits of such market-oriented trade expansion, while difficult to estimate empirically in a comprehensive fashion, were nevertheless a compelling reason for the pursuit of a freer global trading system.

145. This objective would exist for U.S. trade policy whether the U.S. aggregate trade position was in deficit, balance or surplus. The notion that U.S. trade policy would somehow lose its focus on trade barrier reduction, particularly in the bilateral context, if only the U.S. aggregate bilateral and global trade accounts were in surplus, was incorrect.

146. U.S. policy fully recognized that aggregate trade and current account imbalances resulted from broad macroeconomic and structural factors to a much larger extent than from trade policy *per se*. After more than a decade of large U.S. budget deficits and reduced U.S. gross saving, the Clinton Administration was setting policy on a course of substantially reduced budget deficits. The intention was to raise gradually gross saving rates and to set the United States on a long-term course of healthy investment and reduction in its external deficits. Such macroeconomic and structural policy adjustments were equally applicable for countries with large and chronic external surpluses.

147. Fiscal responsibility and control of the budget deficit were key factors affecting the overall context in which U.S. trade policy was formulated. Given the 1993 budget agreement between President Clinton and the Congress, the U.S. federal budget deficit was expected to decline from US\$276 billion, or 4.6 per cent of GDP in 1992, to US\$165 billion or 2.4 per cent of GDP in 1995.

148. Budget deficit reduction alone did not, of course, guarantee reduction in current account deficits. Other factors such as the growth of gross domestic investment and changes in private sector saving played important rôles as well in the determination of overall levels of gross saving, investment and, through identity relationships, the current account balance.

149. The short-term outlook for the U.S. trade imbalance was heavily influenced by continued recessionary, or nearly recessionary, conditions among many major trade partners at a time when the U.S. rate of recovery was accelerating. The outlook for the current account was thus heavily influenced by foreign economic performance and foreign government policy decisions to be taken with respect to economic stimulation. At the present time and reflecting all these factors, the U.S. current account deficit was expected to rise modestly from approximately US\$81 billion in 1993 to US\$93 billion in 1994.

150. It had been suggested that the United States had a general policy of exchange rate targeting in order to affect medium to long-term changes in the trade flows and balances. This was not the case. In addition to real exchange rates, other factors played a rôle in explaining aggregate trade balances, such as overall demand conditions and relative economic growth rates among trading partners. The U.S. focus had principally been on efforts to gradually increase national saving rates and co-ordinate with some major surplus countries on shifts in their policies toward greater domestic-demand led growth.

151. Manufactures made up approximately 85 per cent of U.S. merchandise trade. There had by all accounts been a great deal of improvement in the competitiveness of U.S. manufactured products in world markets quite over and above any impact from exchange rate movements. While the reasons for the resurgence of the competitiveness of exports were not completely understood, there was a degree of agreement on some elements.

152. In the earlier 1980s, U.S. exporting industries experienced the effects of a highly appreciated dollar and U.S. markets largely open to foreign products. While these competitive pressures created years of stress for a number of U.S. industries and their workers, the adjustment to such intense international competition resulted in stronger industries. This experience supported the view of President Clinton that as a matter of national economic self-interest the United States should be fully engaged in competing in, not retreating from, the new global economy.

153. The adjustment to the high dollar and intensifying global competition involved many factors, such as improvement in product quality, greater focus on foreign markets, and focus on improvements in the efficiency of production. The United States experienced quite strong labour productivity growth in manufacturing in the 1980s, which also contributed to a strengthening of the U.S. export position.

154. Productivity growth in the United States since 1981 had been much stronger in manufacturing than for the economy as a whole. Data from the U.S. Bureau of Labour Statistics showed that between 1981 and 1992 output per man-hour rose by 13.9 per cent for all non-farm workers, and by 34.2 per cent for workers in the manufacturing sector. At an average annual rate, manufacturing productivity (2.7 per cent per year) rose more than twice as fast as productivity overall (1.2 per cent).

155. He believed the United States understood how a country's industries achieve a high level of competitiveness on world markets as well as what underlies the creation of trade deficits. The importance of getting one's domestic policy house in order was recognized, and competition could not be based on such things as manipulation of exchange rates. U.S. trade policies were aimed at opening markets and expanding trade and did not have as their *raison d'être* the reduction of trade deficits.

#### The move to a more rules-based system

156. The positive impact on the system over the years of the U.S. "Section 301" statute had been highlighted. Probably no other single measure in any country's trade policy arsenal had had more to do with the successful expansion of the multilateral rules-based system to new and important areas

of trade. The system of the WTO owed much of its credibility to Section 301. Likewise, Section 301 could be operated within the parameters of the multilateral system where dispute settlement undertaking-covered agreements were concerned. "Unilateralism" in the sense it had been used in the past would likely disappear from the trade policy lexicon.

157. Anti-dumping was another area affected by the move to a more rules-based system. It was natural for there to be increased recourse to rules-based measures like the anti-dumping statutes once it had been agreed to eschew reliance on VRAs, OMAs and other trade restrictions imposed without reference to the system's requirements. This was a healthy development. Of course, there was always the possibility for abuse in the United States or in any other country of a statute like the anti-dumping law - but this was precisely where the new dispute settlement rules came into play.

158. Participants in the Round could expect that the United States would enact those changes to current anti-dumping legislation required to conform the statute to its obligations under the revised agreement. The fact that the U.S. Administration was quoted in the IPAC report as indicating that certain provisions were applicable only to the investigation phase was only indicative of the fact that the provisions in question appeared only in the "investigation phase" sections of the revised agreement and were not specifically covered by the sections on the conduct of reviews. Nothing which had been said by the Administration relative to the treatment of labour union views in the initiation stage was intended to imply in any way that the Administration did not intend to satisfy itself that industry support thresholds were met fully prior to initiation.

159. The numerous questions raised by other participants in the review relative to anti-dumping policies and practices had been responded to extensively in writing.

#### The coherence of the multi-track approach

160. The highest priority of U.S. policy over the past year had been the successful completion of the Uruguay Round of multilateral trade negotiations. The Administration was now devoting considerable resources to the enactment of implementing legislation in Congress. The prospects for early Congressional action on the legislation were judged to be fairly good.

161. With the enactment of the legislation and the entry into force of the Uruguay Round agreements, many of the outstanding issues that had beset the trading system would be resolved, whether they related to longstanding panel reports or reform of particular policies and practices. The foundation or floor from which to approach trade policy questions relating to covered agreements on the other tracks would also be set. This last point was extremely important in understanding the multi-track American approach, as for the United States the multilateral system was usually the starting point, not the final objective.

162. The point was that it was not, nor should it be, U.S. policy to support multilateralism for sake of multilateralism.

163. The U.S. objective was to use whatever means best suited the objective in a given area for opening markets and expanding rules-based, market-oriented trade. In some cases, the attainment of these objectives called for so-called "plurilateral" agreements, as in government procurement or a possible sectoral agreement on steel trade. In other instances, regional initiatives like the NAFTA best served U.S. interests and objectives. There was no reason why the multilaterally-agreed "floor" should interfere with the further opening of markets where there was willingness to do so by other like-minded countries.

164. And then there was the very real problem raised by the second discussant, Ambassador Kesavapany, "...the inadequate response of some to legitimate and longstanding demands for market opening...". There was no better argument in favour of the multitrack approach.

165. The world relied on the United States to lead the march out of global recession towards growth. President Clinton had said again and again that American prosperity depended upon global prosperity. Thus, the measures adopted by the United States to deal with particularly intractable barriers should not be seen as "us against them" or American attempts to "beggar thy neighbour". They were the opposite of "managed trade" or "protectionism" because they were market-oriented, designed to achieve something closer to what the market would have achieved had it been free to operate. The U.S. Administration was practical and results-oriented; with some countries, especially those where every major economic indicator deviated strikingly from all other industrialized countries, a more specific approach to market opening seemed to offer more promise than general rhetoric.

#### Tariff peaks

166. The United States had a total of only 876 tariff peaks (rates 15 per cent and above) out of over 8,000 tariff lines. 514 of these were in textiles, 184 in chemicals, 7 in fish, and the rest in other areas (e.g., footwear, glass, ceramics, trucks). The United States had offered cuts in over 90 per cent of its industrial peak tariff lines for an arithmetic average cut of 49 per cent to GATT trade partners. The average U.S. trade-weighted duty offered, post-Uruguay Round would be about 3 per cent ad valorem.

#### Rules of origin

167. A large number of points made by other delegations concerned perceived difficulties associated with American or NAFTA rules of origin. It was true that there was no small complexity associated with the operation of the various American origin rule schemes. However, the United States was a moving force behind the 1990 Agreement on Rules of Origin and was committed to living by the discipline of that Agreement's provisions. The United States would also be an active participant in the foreseen harmonization negotiations. It was somewhat ironic that so many questions related to rules of origin in the NAFTA context. It was, after all, the United States which had pushed for inclusion of preferential rules of origin in the multilateral origin rules agreement - others had refused.

#### Conclusions

168. The current review of U.S. trade policies had been instructive for the United States and it was hoped that it had proven enlightening to all trading partners. The U.S. was convinced that, seen in the light of the three main themes discussed the United States shown that it recognized its importance to and rôle in the world trading system, that it understood the real basis for competitiveness in the United States and the value of using all means at its disposal for opening markets and expanding rules-based trade. The accusation that the United States attempted to "manage trade" betrayed a misunderstanding of the context, the implements and objectives of American trade policy.

169. The first discussant referred to the objectives of U.S. trade policy, described as opening markets for others. The ice-breaker approach of U.S. trade policy led him to ask for more information regarding the criteria to determine whether market opening was achieved by the partner; it was necessary to ensure that m.f.n. was indeed the prevailing concept. Second, prospects seemed good for rapid action by Congress to ratify the Uruguay Round. What was the level of priority attached by Congress to this and when would it take place? Third, the United States said that it did not have a policy of

supporting multilateralism for its own sake, but rather used the most appropriate means to open and create markets. Did the U.S. agree that multilateralism was the instrument to be privileged in opening markets, as it contained the least obvious or latent discrimination? Finally, he urged the United States to pay serious attention to the increasing complexity of U.S. rules of origin.

170. The second discussant welcomed the fact that trade instruments, and in particular the U.S.-Japan Framework, were not designed to reduce the trade deficit, but to enhance economic growth. Could this message be more clearly put across? Currently, the only negative indicator in the United States economy was the current account balance.

171. The arbitrary nature of the Section 301 legislation meant that it was not possible to know when and under what circumstances a country would be the object of such actions. In addition, the legislation could only be used by the strong against the weak. A member of another large contracting party had already expressed the desire to have a 301-type provision. He was thus happy to note that unilateralism would disappear from the trade lexicon.

172. The representative of Austria joined others' concerns about high tariffs, and about non-tariff measures including anti-dumping measures, notably on steel. In this respect, was it correct that a new wave of petitions was on the way? What would be the Government's response? What were the U.S. Administration's intentions with regard to the MSA?

173. In banking, a recent Congressional initiative would charge foreign banks with the cost of examination by the Federal Reserve. He would view such a measure as discriminatory. Stricter laws had recently been introduced regarding taxation of U.S. branches of foreign enterprises. What were the policy intentions regarding this taxation? He added that import permits required for plants and vegetable products for sanitary and phytosanitary purposes could take up to one and a half year to obtain and amounted to a stringent NTB. In the area of rules of origin, he asked for clarification regarding the proposal to extend NAFTA marking rules to general trade.

174. The representative of Argentina noted that, due to the firm attitude taken by the United States, agriculture had been integrated into the Uruguay Round, as was the case for services and TRIPS. He asked for assurances that the 301-type legislation would be replaced by the WTO, and asserted that no single country should have a leadership in this domain as some stood to lose if disciplines were applied arbitrarily. He added, switching to the U.S. macroeconomic setting, that a rise in interest rates on markets could have important international repercussions, notably on smaller countries. He called for a rapid restoration of balance in the U.S. budget. Finally, he looked forward to answers in writing to the other questions previously raised, notably on agriculture.

175. The representative of the European Communities, awaiting the specific replies, noted the United States' self-congratulation for the positive impact of the 301 type regulation on market opening, and recommended prudence in the use of such instruments. He welcomed the statement that U.S. trade policy was not evolving towards managed trade, although the general feeling was to the contrary. Regarding the global coherence of the multitrack approach, was there not a paradox between breaking the ice on the one hand, and the notions of conditionality and extra-territoriality on the other?

176. The representative of Japan welcomed the recognition by the United States that the current account balance was mostly a function of the savings-investment balance. Therefore the U.S. current account deficit was due to the shortage of savings over investment. Unfortunately, for politicians, the deficit stood as such, independently of accounting identities. Secondly, he welcomed the statement

that there would not be any need for unilateralism once the WTO came into effect. Section 301 would thus only function under the rules of the multilateral trading system.

177. Regarding the multitrack approach, multilateralism was in his view the most effective means for the expansion of world trade. Regional agreements were discriminatory and bilateral agreements were even more so. Bilateralism and unilateralism were the same, with one country, generally the strong one, making requests from another. The main problem was that in these measures, one country assumed the rôle of plaintiff, prosecutor and judge at the same time. It was therefore difficult to be fair.

178. On the question of the timing of Section 301 actions, the real question was who were the best lobbyists in the United States, i.e. which sector and industries owned the most effective lawyers? Successful companies never went to Washington to register their complaints.

179. The representative of Canada looked forward to the answers to written questions. He asked for more information on national treatment for foreign direct investment. He regretted that the U.S. Administration had not yet clearly endorsed the principle of national treatment, and appeared to be relying increasingly on reciprocity, as witnessed by the guidelines issued by the Department of Commerce that prohibit it from promoting exports of products made in the United States if the manufacturer was foreign owned. This was related to bilateralism in market opening.

180. The representative of Chile welcomed to the U.S. desire for a rules-based system, but wondered whose rules should prevail. Were these the rules multilaterally agreed, or the national rules established by each country?

181. The representative of New Zealand referred to his other delegations' earlier focus on the effect of U.S. agricultural policies on the multilateral trading system and asked the U.S. delegation if it could give a preliminary response to the questions of how the United States saw its agricultural export policies developing in the future, including the EEP, DEIP and Mandated Commodity Credit Corporation Sales. Second, what criteria were to be used to ensure that a second best to multilateral rules was not chosen when attempting to open markets?

182. The representative of Egypt asked for more information regarding the future of cotton subsidies. In the case of a chronic trade imbalance tilted towards U.S. exports, what measures would be taken to redress the balance?

183. The representative of the European Communities reiterated the four points on which he invited the U.S. delegation to provide more information orally: (1) foreign direct investment, and the concern about the number of draft legislative texts before the Congress to the effect of funding for R&D that would imply conditionality for foreign firms established in the United States: could the United States state clearly what the policy line to be followed would be? (2) Could the U.S. delegation comment on the Berry Amendment (mentioned in the Secretariat report), and describe future policy in the area of Buy American restrictions? What was the mind-set of the U.S. Administration on the question regarding the Sonar mapping system and the related GATT panel? (3) Regarding extra-territoriality, what would the U.S. Government do regarding the implementation of the Cuban embargo, and its effect on foreign countries and enterprises? (4) What was the situation regarding sugar quotas?

184. The representative of Pakistan noted that the view of the majority of contracting parties was that the means to be used in trade policies should be multilateral. Regionalism could only be a second

best solution. The multitrackism approach rang of self-righteousness which, be it in the environmental debate, workers rights etc., was basically about creating the world in one's own image.

185. The representative of Australia noted from the U.S. response that there was a concentration in U.S. trade policy on market opening aspects. One of these aspects had contributed to the successful conclusion of the Uruguay Round, as witnessed by the Section 301 case on oilseeds. Another aspect was that these legal weapons could be dangerous. Genuine autonomous unilateral liberalization measures should not be overlooked. The lingering attachment to sectoral protectionism had perhaps to be underlined. Market opening measures had to be done on an multilateral basis.

186. The representative of Cuba regretted that systematic multilateral treatment of matters relating to international trade would have to wait for the WTO. He shared the interest expressed by others in questions relating to extra-territoriality.

187. The observer from the International Monetary Fund referred to the points made about exchange rate management by the United States. Manipulation of the exchange rate, in order to achieve comparative advantage, was exactly what the Fund guarded against. The U.S. delegation had stated that the exchange rate should reflect the fundamentals, and one could not talk a rate up or down in the opposite direction to the fundamentals with any lasting effect. She confirmed that these points also had featured in discussions in the Fund. The real effective exchange rate of the U.S. dollar, one of the indicators most generally looked at to gauge competitive performance, had remained relatively stable since 1987.

188. In response, the representative of the United States noted that written responses would be distributed shortly. Multilateralism should be the privileged instrument, but this was not always possible. It set the floor for the rules, although on certain occasions, as in the regional context, it was necessary to elaborate the rules in order to provide a better basis for cooperation with trading partners. For example, Chile had a free trade agreement with Mexico, with more liberalising rules than those in the multilateral trading system.

189. Regarding the criteria to be used to negotiate outside the multilateral area to ensure that results were non-discriminatory, it continued to be the U.S. position not to be involved in negotiating bilateral agreements in order to disadvantage others. Its aim was to open markets on an m.f.n. basis, expanding opportunities for all participants.

190. As regards the complexity of rules of origin, he recognized how difficult it could be for a trader to understand and operate systems involving several different rules. He shared the ambition to alleviate the complexity of the rules, and the United States would be participating fully in the Uruguay Round Agreement on this subject. Meanwhile, a Federal Register notice had been published inviting comments on certain planned changes in U.S. rules of origin, which he hoped would take care of some of these difficulties.

191. U.S. trade policy was not targeted at deficit reduction. This was generally not recognized in the press. Macroeconomic adjustments were always included by the Administration when talking about deficit reduction with Japan, as a guiding principle under the Framework Agreement.

192. On the subject of national treatment for foreign direct investment, at the Punta del Este meeting, the United States had proposed that investment per se should be included in the Uruguay Round. The Trade Related Investment Measures aspect of the Round was only a narrow subset of the investment universe. He welcomed the interest in the investment issue, and would be responding in writing.

193. On agricultural trade, it was true that the United States had argued for the maximum possible reduction in the use of subsidies, and the United States had been somewhat disappointed by the results of the negotiations. The Uruguay Round export subsidy reductions would have a substantial beneficial effect on world markets for many agricultural products. U.S. exporters were looking forward to the reduction of such subsidies, and the United States was fully prepared to implement Uruguay Round export subsidy reductions: since U.S. subsidies were relatively recent, introduced with the purpose of responding to subsidies by others, the real effect of the cuts for most exported products was far greater than the percentages found in the Uruguay Round agreements.

194. The United States was, however, not prepared to go beyond the commitments already made under the Round. Cotton subsidies were provided under Section 22, and all restrictions under Section 22 would be converted to tariffs; domestic subsidies for cotton would be reduced in accordance with the commitments made in the Uruguay Round.

195. The representative of Japan welcomed the U.S. commitment, in its written reply, that U.S. law and practice would continue to conform to international rules, and to the new Anti-Dumping Code. He however disagreed with the United States on the issues of circumvention and BIA. Some questions had been missed in the written replies provided by the United States. He thus reiterated his concern about the high share of positive preliminary findings in recent anti-dumping investigations; the question about multinational corporations; and Exon-Florio related concerns.

196. In addition, under the Section 301 procedure, the period between initiation of investigation and retaliation was at most 25 months. The WTO consolidated dispute settlement procedure planned 35 months in this respect. Could the U.S. delegation provide some clarification on the consistency of the two procedures?

197. The representative of Hong Kong specified that his question on bilateral arrangements related to bilateral voluntary export restraint arrangements. In addition, he believed that answers to his written question 2b, as well as answers to his questions on government procurement, would be forthcoming.

198. In response, the representative of the United States recognized that there were some inconsistencies in time period between the Section 301 procedure and those provided in the dispute settlement understanding. These would be eliminated in the implementing legislation.

199. On government procurement, the reported share of government procurement covered by Buy American measures of 70 per cent could not be correct, because the Buy American Act was a federal programme that did not apply to service contracts, which represented about 50 per cent of government procurement in the United States. In addition, the Buy American programme did not prevent foreigners from bidding on U.S. federal contracts; it was a price preference system.

200. Buy American provisions were waived for all Government Procurement Code signatories, except for national security purposes and areas not offered under the Code. More than 10 per cent of federal procurement in 1991 was Code-covered, amounting to over \$20 billion, and of that about 12 per cent was supplied by foreign companies. This did not include the commitments made in the recent negotiations in parallel with the Uruguay Round. The Code provided for opportunities, not guarantees. The United States accounted for over 50 per cent of all opportunities under the Code. Also, the manufacturing base of the United States was enormous; therefore it would make sense economically that many contracts would go to domestic companies, in contrast with the procurement of Hong Kong or even Canada. The structure and size of the economy had to be taken into account.

201. The recently agreed expansion of the Government Procurement Agreement was the chief vehicle for further liberalization. The United States would continue to waive Buy American preferences for Code members, to the extent that coverage was expanded and matched by others. Coverage would be expanded further prior to the signing of the Agreement in April 1994.

202. The representative of the European Communities suggested that the discrepancy in the statistics about the coverage of Buy American provisions could be caused by the inclusion of sub-federal procurement. Federal statistics did not include sub-federal procurement, whose liberalization in the Uruguay Round was a major achievement. The fragmentation of a market could cause damage to enterprises, a factor which had been the driving force behind the single market. There was a need for greater transparency in procurement by the States of the Union.

VII. CONCLUDING REMARKS BY THE CHAIRMAN OF THE COUNCIL

203. These concluding remarks, made on my own responsibility, are my understanding of the salient features of the Council discussion, which will be fully reported in the Minutes.

204. The overriding theme in this third Trade Policy Review of the United States has been that the four strands of U.S. trade policies - multilateralism, regionalism, bilateralism and unilateralism - should be coherent and consistent: coherent and consistent both with its domestic economic policies and its essential leadership rôle, as the largest single trading nation, in the multilateral trading system. This need has been particularly emphasized as we approach ratification of the Uruguay Round package and move from the GATT to the broader scope of the World Trade Organization.

205. Within this major theme, five elements can be identified: the rôle of trade and trade policy in recent U.S. economic developments; the strands of U.S. trade policies and their effect on the multilateral trading system; specific trade measures; sectoral aspects of trade policies; and other issues that go beyond the confines of the GATT into the implementation of the Uruguay Round Agreements.

(1) Rôle of Trade in U.S. Economic Developments

206. Members recognized that the U.S. economy had emerged from recession, with rapid growth, a resurgence of investment, low inflation and increasing employment. Consistent macroeconomic policies, improved competitiveness and export growth had been important in this context. Members welcomed the reductions already apparent in the fiscal deficit and the measures announced in the current budget. It was emphasized that trade measures were not regarded as appropriate or effective means to address domestic economic imbalances.

207. The representative of the United States said his authorities understood that current account imbalances resulted much more from broad macroeconomic and structural factors than from trade policy. The United States' policy was to substantially reduce the budget deficit, gradually raise saving rates and set a long-term course of healthy investment and reduction in external deficits. It was not U.S. policy to target exchange rates in order to affect trade flows. Macroeconomic and structural adjustment was desirable also for countries with large and chronic external surpluses.

(2) Rôle of the United States in the Multilateral Trading System

208. Delegations complimented the United States for its leading rôle in the conclusion of the Uruguay Round and urged the Administration to continue working closely with Congress to obtain smooth ratification of the agreement.

209. While action by the United States in support of the multilateral system was recognized, there were preoccupations concerning some of its trade policy initiatives. The ratification of the North American Free Trade Agreement was welcomed. However, some felt the agreement could lead to net trade diversion. The pursuit, through bilateral and unilateral means, of market-opening in other nations was seen by many as potentially counterproductive and disruptive to the multilateral trading system. In these regards, many stressed the importance of commitment by the United States to, and abidance by, multilateral rules and disciplines; concern was expressed that the United States should not resort to managed trade, particularly in the form of numerical targets, to address bilateral trade difficulties but should use the present GATT and future WTO mechanisms to the fullest extent.

210. The representative of the United States said the principal objective of U.S. trade policy was to reap economic gains for itself and its trade partners from reduction of global barriers to trade with the view to their elimination; policy was motivated by the desire to solve specific trade problems and open others' markets on an m.f.n. basis. Expansion of market-oriented, rules based trade was fundamental to greater efficiency in U.S. and world production, independent of the status of the U.S. trade balance. The multilateral system was the "floor" for the U.S. approach to trade policy. Consequently, the completion of the Uruguay Round had been a priority and, in this regard, prospects for early Congressional action were good. The United States would, however, go further in opening markets if others were willing, either on a regional or plurilateral basis. Where responses to long-standing demands for market opening had been inadequate, a more specific, results-oriented approach was sought. This was not a search for "managed trade" but designed to achieve what free markets should have reached.

(3) Specific Trade Measures

211. Members recognized that the United States was in most respects an open market. Tariff averages were low and virtually all rates were bound. However, there was concern about remaining tariff peaks, particularly in such areas as textiles, clothing, footwear and glassware.

212. Participants noted that increased recourse to anti-dumping and countervailing actions was a source of apprehension, as such actions could lead to unpredictability and increased costs. The use of the "best information available" method for determining dumping margins had become frequent, rather than exceptional. In addition, many cases accepted at the preliminary stage were finally rejected, or margins sharply reduced. Questions were asked on the consistency of aspects of proposed implementing legislation, including provisions on circumvention, with the Uruguay Round agreement.

213. "Buy American" provisions continued to restrict access in public procurement; members asked what steps were envisaged to reduce such provisions, particularly in view of the new Government Procurement Agreement. Access at State level offered in the Uruguay Round was voluntary, conditional and could not be accurately valued.

214. Some members noted that the complexity of U.S. rules of origin created confusion and uncertainty for exporters; it was suggested that harmonization on the basis of a tariff shift criterion would improve the transparency of the system.

215. Many members urged the U.S. to implement the GATT panel recommendations on Section 337 of the U.S. Tariff Act of 1930.

216. Other issues raised included customs user and harbour maintenance fees; ad valorem charges applied to imports not meeting origin marking requirements; testing for standards on certain food imports; and the continued application of Article XXXV of the GATT.

217. In response, the representative of the United States noted that, under its Uruguay Round offer, the trade-weighted average tariff would fall from under 5 to around 3 per cent. Cuts in over 90 per cent of the 876 U.S. peak tariffs had been offered, for an arithmetic average depth of cut of 49 per cent. The United States was reviewing its government procurement provisions in the perspective of the WTO. "Buy American" was not a prohibition, but a preference. Rules of origin were complex, but the United States was committed to the new Agreement on Rules of Origin. Best Information Available ("BIA") was not an equivalent option to verifiable information in anti-dumping or subsidy determinations; however, the discretion available to the Department of Commerce was limited where exporters did

not co-operate with investigations. Efforts would be made to expedite the completion of administrative review. The United States intended to include amendments to Section 337 of the Tariff Act of 1930 in legislation implementing the results of the Uruguay Round. Regarding product standards, efforts had been made towards harmonization and mutual recognition agreements with trading partners, notably the European Union; in the context of NAFTA; and in the perspective of the WTO Agreement on Technical Barriers to Trade.

(4) Sectoral Policy Measures

218. Participants expressed concern about the expansion of U.S. agricultural export programmes; their application to additional previously untargeted markets; and their negative effects on exporting countries. They urged the United States to wind down these programmes in anticipation of the implementation of the Uruguay Round results.

219. The tightening of agricultural import barriers, notably on sugar and meat, was a further cause of preoccupation. Fears were expressed that NAFTA could reduce access to the U.S. sugar market for non-members. Legislation concerning the use of imported tobacco was widely seen as detrimental to exporters of all forms of raw tobacco; the establishment of a GATT panel was noted.

220. Questions were also raised regarding U.S. steel import policies, where anti-dumping and countervailing measures were seen by some as acting as a significant barrier to trade. Some participants regretted the failure to arrive at an agreement on multilateral trade in steel products.

221. Some participants expressed concern about the potentially restrictive nature of the NAFTA origin rules on textiles and clothing, and queried recent measures to prevent circumvention of MFA bilateral agreements. Rules of origin and tariff reclassification were seen as potentially damaging instruments in the motor vehicle sector. Several questioned the bilateral nature of commitments on automobiles and components sought by the United States in negotiations with Japan.

222. In response, the U.S. representative stated that changes in laws required to meet Uruguay Round commitments in agriculture would be contained in the implementing legislation. There was no intention to go beyond the current Uruguay Round commitments on subsidy reduction. Section 22 restrictions would be converted to tariffs on implementation of the Uruguay Round, but could still be applied in the interim.

223. The United States had modified the tariff reclassification of certain motor vehicles. However, there were no plans to eliminate the temporary increase in the import duty for light trucks.

(5) Other Issues

224. Questions were asked about the continued application of the Jones Act to trade in maritime services, and the impact of the Fair Trade in Financial Services Bill on the financial services sector and the continuing multilateral negotiations.

225. It was noted that U.S. measures to protect the environment could have a bearing on trade; the justification for export restrictions on logs was questioned. Concerns were voiced regarding the extraterritorial application of certain U.S. trade legislation, notably in the field of anti-trust and environmental protection.

226. While commending the reduction in the use of the Section 301 authority, several participants expressed preoccupation at the persistent use of "Special 301" in intellectual property issues. With the implementation of the Uruguay Round dispute settlement provisions, resorting to unilateral measures under Section 301 should no longer be necessary.

227. Regarding foreign direct investment in the United States, some participants perceived a risk that national treatment would be replaced by reciprocity considerations. Participants sought clarification of conditionality and national security considerations in decisions on foreign direct investment.

228. Finally, apprehensions were expressed regarding the continuing negative effects, and extra-territorial application, of the unilateral trade embargo maintained by the United States against one contracting party.

229. The representative of the United States expected that, with the entry into force of the Uruguay Round dispute settlement undertakings, "unilateralism" in the existing sense would disappear. Section 301, which had been a spur to the expansion of multilateral rules, would be operable within the WTO system.

230. International investment guidelines were designed to determine whether the transaction would promote the U.S. national interest, including exports, employment and the technology base. The Fair Trade in Financial Services legislation was not yet final. Efforts were made to provide an effective tool to open banking and securities markets overseas.

231. The U.S. Marine Mammal Protection Act would be reauthorized by the Congress in 1994.

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232. This third review of the United States' trade policies and practices has underlined the importance of the United States in the multilateral trading system. The present period, including the run-up to Marrakesh, is crucial for the stability and future of world trade. There are many positive elements in U.S. trade and economic policies, but the very size of the economy and trading sector means that any weaknesses in its policies impact on all its trading partners. Participants thus look to rapid ratification by the United States of the Uruguay Round agreements, to consolidate a strengthened multilateral base for U.S. trade policies. I therefore return to the point made at the outset: the importance attached by the Council to consistency and coherence in U.S. trade policies and the need for the United States to adhere closely to multilaterally agreed provisions, both now and in the implementation phase of the Uruguay Round.

Further remarks by the United States

233. The representative of the United States thanked the Chairman for his concluding remarks, the discussants for their well-founded questions, the Secretariat for its hard work and members of the Council for their constructive attitude. The United States recognized that it had a responsibility to answer certain questions to which, so far, no response had been given. The Trade Policy Review continued to be an intellectually stimulating exercise, not without its unexpected surprises; in this connection, he expressed some surprise about certain elements in the concluding remarks made under the responsibility of the Chair.

234. The Chairman stated that he believed his closing remarks reflected the discussion that had taken place.