VIII. Trade Enforcement Activities

Enforcing our Trade Agreements

To secure the full benefits of the more than 240 trade agreements concluded since 1993, as well as agreements negotiated by prior Administrations, the Clinton Administration has taken an aggressive approach to monitoring compliance by U.S. trading partners and enforcing U.S. rights around the world. In January 1996 the USTR created an Office of Monitoring and Enforcement, which focuses its attention on trade agreement implementation and pursing enforcement actions -- using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Complementing this enforcement effort, in July 1996 the Department of Commerce established a Trade Compliance Center (TCC) in the Department's International Trade Administration. The TCC focuses on analyzing foreign trade barriers, identifying possible trade agreement violations, and determining ways to ensure that the United States is getting the full benefits of its trade agreements.

During the first two years of its operation, USTR's Office of Monitoring and Enforcement has monitored implementation of the Uruguay Round agreements, NAFTA and other multilateral and bilateral trade agreements, using formal dispute settlement procedures aggressively to compel compliance. The Office of Monitoring and Enforcement, which is responsible for litigating such disputes on behalf of the United States and disseminating information about dispute settlement to the public, has invoked formal procedures under the new World Trade Organization (WTO) dispute settlement mechanism in 35 cases to date -- more than any other country in the world. So far the United States has prevailed on 17 of the 18 complaints that the WTO has acted on or that have been settled on terms favorable to the United States (winning 9 in panel proceedings and settling 8 others). These cases cover a number of WTO agreements -- involving rules on trade in goods, trade in services, and intellectual property protection -- and affect a wide range of sectors of the U.S. economy. Some of these cases, like the complaint involving Indonesia's national car program, involve a wide variety of pernicious practices, like subsidies and trade-related investment measures, that are emblematic of the trade barriers facing U.S. exports in many countries. To further support such efforts, USTR is creating 7 new attorney positions this year.

USTR's Office of Monitoring and Enforcement also works to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and NAFTA. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights (IPR) enforcement, "Super 301" for dealing with barriers that affect U.S. exports with the greatest potential for growth, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems and Title VII of the 1988 Act to address problems in foreign government procurement.

Use of these trade statutes has resulted in significant benefits to U.S. industries, farmers and workers. For example, "Special 301" has

been particularly effective in securing IPR protection and enforcement. In this regard, careful monitoring of the implementation of the two IPR agreements with China, as well as the threat of sanctions under Section 301 for failure to implement the first of those two agreements, have provided substantial and continuing improvements in China's IPR enforcement. The United States is engaged in regular bilateral consultations with China on IPR and market access issues to ensure that our agreements are implemented and that China addresses other bilateral trade problems.

WTO Dispute Settlement

In 1997, the WTO dispute settlement procedures continued to yield very positive results for the United States. In addition to having the WTO Appellate Body uphold a U.S. challenge to Japan's discriminatory taxes on distilled spirits, the United States was victorious in eight further cases that were argued before WTO dispute settlement panels in 1997. Four of these victories were subsequently affirmed by the WTO Appellate Body, and one victory is currently on appeal. These victories, which include successful challenges to the EU's ban of certain U.S. beef and its discriminatory banana import regime, have demonstrated the utility of the dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations. The United States has also been able to obtain satisfactory outcomes in a number of other cases without having to resort to formal panel proceedings. For instance, in July 1997 the United States reached an agreement with Turkey whereby Turkey agreed to end its discriminatory taxation of foreign films. Similarly, in an agreement reached with Hungary, Hungary admitted that its export subsidies on agricultural products violated its WTO commitments and agreed to phased-out these subsidies in a legally-binding, staged program.

In addition to these significant accomplishments, the United States also brought 14 new complaints to WTO dispute settlement in 1997, covering a broad range of sectors and various WTO Agreements. Among these new cases are challenges to Korea's discriminatory taxation of U.S. liquor imports, Indonesia's program of providing tax and tariff benefits to automotive manufacturers that meet local content requirements, and Japan's redundant testing of U.S. fruit exports.

These and other enforcement activities are explained in more detail in the following and other sections of this Report. In particular, see the description of the activities of the WTO Dispute Settlement Body in Chapter IV.

Other Monitoring and Enforcement Activities

Subsidies Enforcement

The Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement"), administered by the WTO, establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies affecting competition not only domestically, but also in the subsidizing government's market and in third country markets. Previously, the countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. The countervailing duty law focuses only on the effects of foreign subsidized competition in the United States. Under the Subsidies Agreement, U.S. industries have a remedy through the WTO against foreign subsidies that affect their business in markets other than the United States

Section 281 of the Uruguay Round Agreements of 1994 ("URAA") sets out the responsibilities of USTR and the Department of Commerce ("Commerce") in enforcing the United States' rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters, represents the United States in the WTO, including the WTO

Committee on Subsidies and Countervailing Measures, and leads the interagency team on matters of the policy. The role of Commerce's Import Administration is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. Towards this end, the Import Administration has created the Subsidies Enforcement Office (SEO).

The focus of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient, relevant information has been gathered concerning the subsidies practice to permit the matter to be reliably evaluated, USTR and Commerce will confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During this past year, the SEO has worked to increase awareness of the resources available to the U.S. trading community in combating unfair competition in foreign markets due to subsidization. In consultation with USTR and other agencies, the SEO has developed information and analyzed subsidy concerns, integrated other government resources into this process, and made available through the Internet all publicly available subsidy information. For example, an important aspect of increasing the effectiveness of the SEO has been to ensure that government personnel who have daily contact with the U.S. exporting community, both here in the United States and in our embassies overseas, are aware of the resources and services available regarding subsidies enforcement. In addition, the SEO has created an electronic database on foreign subsidies drawn from the subsidies information which Commerce has developed through years of conducting countervailing duty investigations, and has made this available through the Internet. By providing this information in a centralized location, the U.S. exporting community has improved access to information about the remedies available to them under the Subsidies Agreement and the information necessary to develop a countervailing duty case or a WTO subsidies complaint.

Monitoring Foreign Antidumping and Countervailing Duty Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member country to another. The United States carefully monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with the WTO Agreements.

To this end, the Department of Commerce maintains a list of foreign antidumping and countervailing duty actions filed against U.S. exporters. The list is publicly available and will soon be accessible in the electronic library on the Department of Commerce's Import Administration Internet web site at: http://www.ita.doc.gov/import_admin/records. The list provides U.S. exporters with information collected from U.S. embassies worldwide enabling U.S. companies and the U.S. government to monitor the administration of antidumping and countervailing duty actions against U.S. companies. Over the past year, the U.S. government has request and held WTO consultations on an antidumping case filed by Mexico against U.S. exports of high fructose corn syrup. The U.S. government also met with

Mexican officials regarding an antidumping case filed by Mexico against U.S. exports of red and golden delicious apples. In addition, the U.S. government has been monitoring very closely the first antidumping investigation ever initiated by the People's Republic of China, which was filed against exports of U.S. newsprint.

Twice a year WTO Members notify the WTO of all antidumping and countervailing duty actions they have undertaken during the preceding six-month period, along with updated information on any outstanding antidumping and/or countervailing measures already in effect. The actions are identified in semi-annual reports submitted for discussion in meetings before various WTO committees. The reports and copies of WTO Members' new legislation and/or regulations implementing their antidumping and countervailing duty laws are maintained in hard copy by Import Administration and are made available to interested parties and others who wish to be apprised of the specific details foreign cases or the laws and regulations governing their administration. The documents are also accessible through Import Administration's web-site "link" to the WTO.

U.S. Trade Law

Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and may also be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased foreign market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

The USTR has initiated 116 investigations pursuant to Section 301 since the statute was first enacted in 1974. Since the beginning of the Clinton Administration, the USTR has initiated twenty-six Section 301 investigations.

Investigations initiated in 1996 addressed: discriminatory treatment of foreign periodicals in Canada, the term of patent protection in Portugal, patent protection for pharmaceuticals and chemicals in Indian and Pakistan, a discriminatory tax on box office revenue in Turkey, Australian subsidies affecting leather, Argentine specific duties and non-tariff barriers affecting apparel, textiles and footwear, Indonesian and Brazilian practices benefiting their domestic auto sectors.

In 1997, the USTR initiated six new investigations; these investigations addressed: intellectual property protection in Honduras, Korea's barriers to auto imports, the EU's circumvention of export subsidy commitments on dairy products, Canada's discriminatory use of export subsidies and denial of market access for dairy products, Japan's barriers to the importation of certain agricultural products, and the EU's restrictions on market access for modified starch.

The USTR initiated two investigations in 1997 in response to petitions, while four were at the USTR's own initiative. One investigation was terminated in 1997 after a WTO panel and the appellant body ruled in favor of the United States and the other country agreed to comply with its WTO obligations, two investigations were terminated as a result of agreements reached during WTO consultations and another investigation was terminated after agreement was reached on further consultation under a bilateral agreement. One petition was withdrawn before the USTR acted on it.

Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government policy or practice and take

action. The USTR may also self-initiate an investigation. In each investigation the USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under the agreement.

If the matter is not resolved by the conclusion of the investigation, section 304 of the Trade Act requires the USTR to determine whether the practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take. The time period for making these determinations varies according to the type of practices alleged. Investigations of alleged violations of trade agreements with dispute settlement procedures must be concluded within the earlier of 18 months after initiation or thirty days after the conclusion of dispute settlement proceedings, whereas investigations of alleged unreasonable, discriminatory or unjustifiable practices (other than the failure to provide adequate and effective protection of intellectual property rights) must be decided within 12 months.

The range of actions that may be taken under Section 301 is broad and encompasses any action that is within the power of the President with respect to trade in goods or services or with respect to any other area of pertinent relations with a foreign country. Specifically, the USTR may (1) suspend trade agreement concessions, (2) impose duties or other import restrictions, (3) impose fees or restrictions on services, (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States, and (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply or fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

The following Section 301 investigations were conducted during 1997 (for those investigations involving resort to WTO dispute settlement procedures, see also the section *Disputes Brought by the United States* in Chapter IV of this report for additional details).

Honduran Protection of Intellectual Property Rights (301-116)

In May 1997, the Trade Policy Staff Committee (TPSC) determined that the Government of Honduras had failed to provide adequate and effective means under its laws for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property. This determination was due to the failure of the Honduran Government to take action against continued and blatant copyright piracy. The TPSC recommended a partial suspension of the duty-free treatment accorded Honduras under the Generalized System of Preferences and Caribbean Basin Initiative programs. In light of the foregoing, on October 31, 1997, the USTR self-initiated an investigation with regard to acts, policies and practices of the Government of Honduras with respect to the protection of intellectual property rights and proposed to determine that the acts, policies and practices are unreasonable and that the appropriate response should be a partial suspension of tariff preferences.

Korean Barriers to Auto Imports (301-115)

On October 20, 1997, the USTR initiated an

investigation with respect to certain acts, policies and practices of the Government of the Republic of Korea that pose barriers to imports of U.S. autos into the Korean market. See Super 301 section below for further details.

EU Circumvention of Export Subsidy commitments on Dairy Products (301-114)

On October 8, 1997, the USTR self-initiated an investigation with respect to certain acts, policies and practices of the EU concerning export subsidies on processed cheese and whether the EU is circumventing its WTO subsidy reduction commitments. The EU is counting its cheese exports against its subsidy limits on powdered milk and butterfat to avoid the limits on export subsidies for cheese. On November 18, 1997, WTO consultations were held between the United States and the EU.

Canadian Export Subsidies and Market Access for Dairy Products (301-113)

On September 5, 1997, the National Milk Producers Federation, the U.S. Dairy Export Council, and the International Dairy Foods Association filed a petition alleging that certain Canadian export subsidies, along with Canada's failure to implement a tariff rate quota (TRQ) for fluid milk, constitute acts, policies, and practices that violate, are inconsistent with, or otherwise deny benefits to the United States under the Uruguay Round Agreement on Agriculture and the GATT 1994. On October 8, 1997, the USTR initiated formal WTO consultations with the EU and, on October 11, 1997, initiated an investigation of the Canadian practices under Section 301of the Trade Act of 1974. Following formal consultations on November 19, 1997, the United States requested the formation of a WTO dispute settlement panel on February 2, 1998.

Japan Market Access Barriers to Agricultural Products (301-112)

On October 7, 1997, the USTR self-initiated an investigation with respect to certain acts, policies and practices concerning Japan 's prohibition on imports of certain U.S. agricultural products. When Japan requires quarantine treatment for an agricultural product, Japan prohibits the importation of each variety of that product until the quarantine treatment has been tested for that particular variety. This is true even though the treatment has proven effective for other varieties of the same product. The United States alleged that these practices are inconsistent with certain provisions of the WTO Agreements on the Application of Sanitary and Phtosanitary Measures and on Agriculture and GATT 1994. A WTO panel was established on November 18, 1997.

EU's Market Access for Modified Starch (301-111)

On January 22, 1997, the U.S. Wheat Gluten Industry Council filed a petition alleging that certain wheat and starch subsidy programs of the EU constitute acts, policies, and practices that violate, or are inconsistent with, or otherwise deny benefits to the United States under the GATT 1994 and the WTO Subsidies and Countervailing Measures (SCM) Agreement. On March 8, 1997, the USTR initiated an investigation of these practices -- specifically, the provision of subsidies that affect access to the EU modified starch market. The USTR subsequently delayed requesting consultations with the EU for up to 90 days, for the purpose of verifying and improving the petition to ensure an adequate basis for consultations. On June 6, 1997, having consulted with the petitioner, the USTR decided to consult with the EU under provisions of the US-EU Grains Agreement of July 22, 1996, and not to pursue consultations under the WTO Agreements at that time. In light of the foregoing, the USTR subsequently terminated the Section 301 investigation.

There were major developments in the following investigations during 1997 following the issuances of last year's Annual Report:

Canada - Practices Affecting Periodicals (301-102)

On March 11, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Canada that restrict, prohibit and discriminate against imports of certain periodicals into Canada. In a report circulated on March 14, 1997, a WTO panel found that the following three Canadian measures violated Canada's obligations under the GATT: (1) Canada's import ban on certain periodicals; (2) Canada's 80 percent excise tax on so-called "split-run" periodicals, and (3) Canada's discriminatory "commercial" postal rates. On June 30, 1997, the Appellate Body affirmed the above panel findings and in addition, found that a fourth Canadian measure -- Canada's discriminatory "funded" postal rates -- was also inconsistent with Canada's GATT obligations. On September 11, 1997, based on the results of the WTO dispute settlement proceedings, the USTR determined that Canada's practices violate its obligations under the GATT 1994. In light of Canada's letter of August 29, 1997, to the WTO Dispute Settlement Body stating that it will meet its WTO obligations and will comply with the WTO panel and Appellate Body reports within a reasonable period of time, the USTR also determined that Canada was taking satisfactory measures to grant the rights of the United States under the GATT. As such, the USTR decided not to take action under section 301 of the Trade Act of 1974, to terminate the investigation, and to monitor Canada's compliance pursuant to section 306 of the Trade Act.

Pakistan - Patent Protection for Pharmaceuticals and Agricultural Chemicals (301-104)

On April 30, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Pakistan that may result in the denial of patents and exclusive marketing rights to U.S. individuals and firms involved in the development of innovative pharmaceutical and agricultural chemical products. The USTR also requested WTO consultations.

Following consultations between the United States and Pakistan, on February 4, 1997, the President of Pakistan issued Ordinance No. XXVI of 1997, establishing a framework for a filing system for patent applications for pharmaceutical and agricultural chemical products and for the grant of exclusive marketing rights under certain circumstances. On February 28, 1997, the United States and Pakistan notified the DSB that they had reached a mutually satisfactory solution to the matter in light of Pakistan's planned implementation of Ordinance No. XXVI. On June 9, 1997, having reached a satisfactory resolution of the issues under investigation, the USTR terminated the investigation and will monitor implementation of the agreement under Section 306 of the Trade Act.

Turkey - Discriminatory Tax on Box Office Revenues (301-105)

On June 12, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Turkey that may result in the discriminatory treatment of U.S. films in Turkey and requested WTO consultations.

Following consultations under WTO dispute settlement procedures, Turkey agreed to eliminate the discriminatory aspects of this tax by equalizing box office taxes applied to foreign and domestic films. As a result of Turkey's commitment, the United States withdrew the matter from further consideration by the WTO. On November 21, 1997, having reached a satisfactory resolution of the issues under investigation, the USTR terminated its investigation. On December 19, 1997, the USTR announced full Turkish compliance in this matter, as the Turkish Council of Ministers published a regulation which equalized taxes placed on foreign films with those placed on domestic films.

India - Patent Protection for Pharmaceuticals and Agricultural Chemicals (301-106)

On July 2, 1996, USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of India that result in the denial of patents and exclusive marketing rights to U.S. individuals and firms involved in the development of innovative pharmaceutical and agricultural chemical products. Pursuant to a U.S. request, a WTO dispute settlement panel was formed on November 20, 1996. On September 5, 1997, the panel found that India must establish a TRIPs-consistent mailbox system and provide exclusive marketing rights, and agreed with the U.S. arguments that India had not yet done so. On December 19, 1997, the WTO Appellate Body affirmed the panel's findings on these points.

Australia - Subsidies on Leather (301-107)

On August 19, 1996, the Coalition Against Australian Leather Subsidies filed a petition alleging that certain subsidy programs of the Government of Australia constitute acts, policies, and practices that violate, are inconsistent with or otherwise deny benefits to the United States under the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). On October 3, 1996, the USTR initiated in investigation of the Australian subsidy practices under Section 301, and WTO consultations were held on October 31, 1996. On November 25, 1996, Australia agreed to excise automotive leather from its ICS and its Export Facilitation Scheme by April 1, 1997. Subsequently, however, Australia decided to provide a new package of subsidies to the sole Australian exporter of automotive leather. On October 1, 1997, Ambassador Barshefsky announced that the United States would invoke WTO dispute settlement procedures to challenge the new subsidies package under the SCM Agreement. On November 10, 1997, the United States requested WTO consultations on the new Australian measures and, on January 22, 1998, a WTO dispute settlement panel was establishment under the expedited procedures of the SCM Agreement.

Argentina - Specific Duties (301-108)

On October 4, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Argentina concerning the imposition of (1) specific duties on apparel, textiles, and footwear; (2) a discriminatory statistical tax; and (3) a burdensome labeling requirement on apparel and textiles. The United States also requested formal WTO consultations. Through consultations, the parties resolved their differences on the labelling requirement. On February 25, 1997, however, a WTO dispute settlement panel was established to resolve the United States' remaining complaints. In its report, circulated November 25, 1997, the panel found that the specific duties on textiles and apparel violated Argentina's tariff bindings under GATT Article II, and that the statistical tax violated GATT Article VIII. Argentina has appealed the panel's findings. Prior to the establishment of the panel, Argentina revoked its specific duties on footwear and replaced them with similar duties pursuant to a domestic safeguard measure. The USTR is currently reviewing the Argentine safeguard measure and its consistency with Argentina's WTO obligations.

Indonesia - Promotion of the Motor Vehicle Sector (301-109)

On October 8, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Indonesia concerning the grant of conditional tax and tariff benefits intended to develop a motor vehicle sector in Indonesia. In particular, the investigation examined the consistency of Indonesia's practices with provisions of GATT 1994 and the TRIMs, TRIPs and SCM

Agreements. Extensive WTO consultations were held on these practices. On July 30, 1997, a WTO dispute settlement panel was established in response to a U.S. request and consolidated with a panel previously established to consider similar EU and Japanese complaints. This case is now under consideration by the panel.

Brazil - Practices Regarding Trade and Investment in the Auto Sector (301-110)

On October 11, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Brazil concerning the grant of tariff-reduction benefits contingent on satisfying certain export performance and domestic content requirements. However, the USTR delayed requesting formal WTO consultations, required under Section 303(a) of the Trade Act, for 90 days to allow for bilateral negotiations. Following the 90 day delay, on January 10, 1997, the United States requested WTO consultations with Brazil concerning its new auto incentive programs. These consultations are continuing.

Super 301

On March 3, 1994, the President signed Executive Order 12901 re-instituting for calendar years 1994 and 1995 the "Super 301" provisions of the Omnibus Trade and Competitiveness Act of 1988. On September 27, 1995, the President amended Executive Order 12901 to extend it to calendar years 1996 and 1997. The executive order requires that within six months of the submission of the annual National Trade Estimate Report, the USTR shall review U.S. trade expansion priorities and identify those priority foreign country practices, the elimination of which is likely to have the most significant potential to increase U.S. exports. The USTR is also required to report to the Senate Finance Committee and the House Ways and Means Committee on any such practices. The USTR may also cite in the report practices that may warrant identification in the future or that were not identified because they are already being addressed and progress is being made toward their elimination. Within 21 days after the report is submitted, the USTR must initiate Section 301 investigations into any priority foreign country practices identified in the report.

In the 1997 Super 301 report to the Congress, released on October 1, 1997, the USTR identified Korean barriers to auto imports as a priority foreign country practice. Specific Korean practices of concern include an array of cumulative tariff and tax disincentives that disproportionately affect imports, onerous and costly auto standards and certification procedures, auto financing restrictions, and a cumulative climate of bias against imported vehicles. On October 20, 1997, the USTR initiated a Section 301 investigation with respect to certain acts, policies and practices of the Government of the Republic of Korea that pose barriers to imports of U.S. autos into the Korean market.

In the 1997 Super 301 report the USTR stressed that enforcement of international trade agreements and U.S. trade laws underpins the Administration's entire approach to trade -- and is critical to achieving its objective of building on the trade agreements reached so far to open markets further and expand trade. The USTR also announced the initiation of enforcement actions involving four countries' trade practices; three of the actions involved new WTO dispute settlement proceedings in the context of Section 301 investigations -- Japan's market access barriers to fruit, Canada's export subsidies and import quotas on dairy products and EU circumvention of its export subsidy commitments on diary products. The fourth action involved the invocation WTO dispute settlement procedures to challenge Australian subsidies introduced to replace export subsidies on automotive leather that were already the subject of a Section 301 investigation.

This year's Super 301 report also identifies a number of areas where the Administration is applying U.S. trade laws, WTO dispute

settlement procedures, and other provisions to address foreign trade barriers adversely affecting U.S. exports. The Super 301 report also discussed priorities in addressing bilaterally a number of serious problems in trade with Japan, China, and Korea and the special attention the Administration is giving to the increase in trade barriers that appear under the guise of technical requirements, such as sanitary and phytosanitary requirements and standards, certification and testing requirements.

Special 301

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreement Act of 1994, under Special 301 provisions, USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products must be designated as priority foreign countries.

Priority foreign countries are potentially subject to an investigation under the Section 301 provisions of the Trade Act. USTR may not designate a country as a priority foreign country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR.

USTR must decide whether to identify countries each year within 30 days after issuance of the National Trade Estimate Report. In addition, USTR may identify a trading partner as a priority foreign country or remove such identification whenever warranted.

USTR has created a “priority watch list” and “watch list” under Special 301 provisions. Placement of a trading partner on the priority watch list or watch list indicates that particular problems exist in that country with respect to IPR protection or enforcement or market access for persons relying on intellectual property. Countries placed on the priority watch list are the focus of increased bilateral attention concerning the problem areas.

On April 30, 1997, USTR identified 46 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to U.S. persons that rely upon intellectual property protection. Also announced was the monitoring of China's compliance with the 1996 bilateral intellectual property agreement under section 306 of the Trade Act. The identification of 46 partners represented a 25% increase in the number of trading partners named in 1996. Of the 46, 10 were placed on the Priority Watch List and 36 on the Watch List. Eleven of these 46 were named for out-of-cycle reviews: Brazil, Bulgaria, Canada, Ecuador, Hong Kong, Italy, Luxembourg, Panama, Paraguay, Thailand, and Turkey. USTR also noted growing concern about an additional 12 countries not named to the Watch List or Priority Watch List. Finally, USTR used the Special 301 announcement to report its intention to bring WTO Dispute Settlement cases, three of which were initiated in 1997.

In September, USTR reviewed the protection of intellectual property in Italy, Thailand, Panama, Luxembourg, and Ecuador. As the result of these reviews, Thailand, Luxembourg and Italy remained on the Watch List. Ecuador remained on the Priority Watch List. Ambassador Barshefsky noted concern at the slow progress Ecuador was making at addressing long-standing U.S. concerns, and stated that "should Ecuador fail to achieve these long-overdue goals, the United States will be forced to consider whether to designate Ecuador a priority foreign country . . ." Panama was removed from the Watch List, but USTR will continue to observe Panama's progress and specified a number of areas it would continue to monitor in anticipation of the 1998 Special 301 decisions.

In December, USTR reviewed the protection of intellectual property in Paraguay, Turkey, Bulgaria, Brazil and Hong Kong. As the result of these reviews, Paraguay was identified as a Priority Foreign Country, because of alarming levels of piracy and counterfeiting, and the Government's continued failure to enact adequate and effective intellectual property legislation. Bulgaria was elevated from the Watch List to the Priority Watch List because of extensive piracy of sound recordings and software. USTR also noted that should Bulgaria fail to make substantial progress toward combating the piracy, it will be identified as a Priority Foreign Country, as early as April 1998. Turkey remained on the Priority Watch List, and USTR noted that until U.S. concerns are addressed, the U.S. will not consider requests to augment Turkey's benefits under the U.S. Generalized System of Preferences (GSP) program. Brazil and Hong Kong remained on the Watch List.

Telecommunications

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires the USTR to review, by March 31 of each year, the operation and effectiveness of U.S. telecommunications trade agreements.

The purpose of the Section 1377 review is to determine whether any act, policy, or practice of the foreign country that has entered into a telecommunications-related agreement with the United States (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country. An affirmative determination under Section 1377 must be treated as an affirmative determination of a violation of a trade agreement under Section 304(a)(1)(A) of the Trade Act of 1974.

The 1997 review, which was completed on March 31, 1997, focused on implementation of bilateral agreements with Mexico, Korea, Japan, and Taiwan.

The 1997 review noted the satisfactory conclusion to Mexico's development of NAFTA-compliant terminal attachment standards and progress in facilitating U.S. laboratories' ability to test to Mexican product safety standards, a NAFTA obligation. Mexico was cited in the 1996 review for its failure to permit U.S. labs to engage in such testing. A formal understanding resolving this issue was concluded in April 1997.

In July 1997, the United States determined that Korea had adequately addressed issues which had resulted in Korea being identified in 1996 as a Priority Foreign Country under section 1374 of the 1988 Act. Commitments Korea made, which enabled the USTR to revoke this identification, included the elimination of certain information technology tariffs, increased level of permissible foreign investment in Korean telecommunications companies, and the issuance of a policy statement affirming open procurement policies, transparent licensing and certification requirements, satellite services access, and protection of intellectual property.

Japan was examined in the 1377 Review for procedures relating to government procurement. The main issue was a major procurement which Japan's National Police Agency had initiated outside procedures mandated by both the WTO Government Procurement Agreement and the U.S.-Japan Framework Agreement on Japanese Public Sector Telecommunication Procurement. After numerous interventions, the NPA agreed to conduct this procurement under the mandated open procedures, which permitted foreign companies to participate fully in the process.

Procedures relating to procurement by Japan's major telecommunications carrier, NTT, were also reviewed in 1997. Problems identified as hindering access by foreign firms were addressed in subsequent negotiations to extend and improve these arrangements beyond their 1997 expiration. The new arrangements, concluded in September 1997, included provisions improving access to technical information and procurement data, and a stronger commitment to the use of international standards.

Taiwan was noted in the 1377 review as implementing commitments to ensure the establishment of a open and competitive wireless market.

Government Procurement

Title VII of the 1988 Omnibus Trade and Competitiveness Act, which expired on April 30, 1996, required the U.S. Trade Representative, through authority delegated by the President, to submit to Congress an annual report identifying foreign countries that are signatories to the WTO Government Procurement Agreement (GPA) and are in violation of their GPA obligations.

The report was also required to identify GPA signatories that met the statutory criteria for identification in areas not covered by the GPA, as well as non-signatories that met these criteria in any area of procurement. Those criteria were: (1) a significant and persistent pattern or practice of discrimination in government procurement against United States goods and services; (2) identifiable harm to U.S. businesses; and (3) significant purchases by the United States Government of goods or services from that country.

In addition, Title VII required identification of countries that are not signatories to the GPA and fail to apply transparent and competitive procurement procedures or to maintain and enforce effective prohibitions on bribery.

Title VII provided for consultations with countries whose practices were identified in the report as discriminatory and for appropriate Presidential action with regard to such countries if discrimination were not addressed within specified time frames. Title VII required initiation of dispute settlement procedures established by the GPA for apparent violations of the GPA. With respect to discrimination in procurement not covered by the GPA, Title VII authorized the imposition of procurement sanctions if the discriminatory practices were not eliminated.

From 1991-1996, the Office of the United States Trade Representative conducted six annual reviews under Title VII. On April 30, 1996, Title VII expired pursuant to a sunset provision, except with respect to identifications made on or before that date. Accordingly, no review was conducted in 1997. Sanctions imposed in 1993, however, remain in place against the EU and its Member States for discrimination against U.S. telecommunications products.

In addition, sanctions against Germany remain suspended pending implementation of procurement reform legislation in Germany. On April 30, 1996, the United States Trade Representative identified Germany for a "significant pattern or practice of discrimination" in the heavy electrical equipment sector. The identification was based on irregularities in the procurement process for two separate steam turbine generator projects in Germany. In particular, the Title VII Report noted a "pervasive institutional problem" with respect to Germany's implementation of a remedies system for challenging procurement decisions. Following a 60-day period of consultation provided for in the statute, the USTR formally identified Germany on July 1, but suspended imposition of sanctions until September 30 due to progress made in the consultations.

On October 1, 1996, the USTR announced that Germany had agreed to reform its procurement system to ensure open competition in the German heavy electrical equipment market and that the German Cabinet had decided to pursue legislation to reform the German procurement system. As a result, the USTR suspended imposition of sanctions pending implementation of German procurement reform legislation.

In the past year, the German Cabinet has submitted draft legislation to reform its procurement system to the German legislature. The draft legislation includes key improvements to Germany's procurement remedies system. German officials have assured the United States that they will continue to pursue expeditious enactment and

implementation of the legislation. The Office of the U.S. Trade Representative will continue to monitor legislative developments and Title VII sanctions will remain suspended pending implementation of German legislation. Sanctions will be imposed if the final reform legislation is unsatisfactory, there are unreasonable delays in implementation of the legislation, or U.S. firms experience additional difficulties in procurements while legislation is pending.

Antidumping Actions

Under the antidumping law, offsetting duties are imposed on imported merchandise when the Department of Commerce (Commerce) determines that the merchandise is being dumped (sold at "less than fair value" (LTFV)) and the USITC determines that there is material injury or threat of material injury, or material retardation of the establishment of an industry, “by reason of” those imports. The antidumping law's provisions are incorporated in Title VII of the 1930 Tariff Act and have been substantially amended by the l979 Trade Act, the 1984 Trade Act, the 1988 Trade Act, and the 1994 Uruguay Round Agreements Act (URAA).

An antidumping investigation typically starts when a U.S. industry, or a representative filing on its behalf, submits a petition alleging dumping of imported merchandise as well as material injury or threat thereof to a U.S. industry, or material retardation of the establishment of such an industry, “by reason of” such imports. If Commerce decides the petition is sufficient, it will initiate an antidumping investigation. Commerce may also initiate an investigation on its own motion.

After initiation, the USITC decides, within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, by reason of the LTFV imports. If this preliminary determination by the USITC is negative, the investigation is terminated; if it is affirmative, the focus of the case shifts back to Commerce for preliminary and final inquiries into the alleged LTFV sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond equal to the estimated weighted average dumping margin.

If Commerce's final determination of LTFV sales is negative, the investigation is terminated. If affirmative, the USITC makes a final determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the LTFV imports, an antidumping order is issued. If the USITC's final injury determination is negative, the investigation is terminated and the Customs bonds released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins and subsidy rates pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and the USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the URAA.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the terms of the NAFTA.

The numbers of antidumping petitions filed in and since 1986 are as follows: 65 in 1986; 15 in 1987; 78 in 1988; 23 in 1989; 28 in 1990; 67 in 1991, 105 in 1992; 42 in 1993; 41 in 1994; 16 in 1995; 21 in 1996; and 15 in 1997. The numbers of antidumping orders (not including suspension agreements) imposed in and since 1986 are: 21 in 1986; 38 in 1987; 8 in 1988; 36 in 1989; 8 in 1990; 14 in 1991; 11 in 1992; 39 in 1993; 17 in 1994; 23 in 1995; 9 in 1996; and 7 in 1997.

Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the 1930 Tariff Act. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law.

The CVD law's purpose is to offset certain foreign government subsidies benefitting imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures. Commerce normally initiates investigations based upon a petition submitted by an interested party. The USITC is responsible for investigating material injury issues. The USITC must make a preliminary finding of a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination.

The numbers of CVD petitions filled in and since 1986 are: 28 in 1986; 8 in 1987; 24 in 1988; 6 in 1989; 8 in 1990; 14 in 1991; 42 in 1992, 6 in 1993, 6 in 1994; 2 in 1995; 1 in 1996; and 5 in 1997. The numbers of CVD orders imposed in and since 1986 are: 15 in 1986; 11 in 1987; 5 in 1988; 10 in 1989; 0 in 1990; 1 in 1991; 6 in 1992; 18 in 1993, 1 in 1994; 2 in 1995; and 2 in 1996; and 0 in 1997.

Unfair Trade Practices (Section 337)

Section 337 of the Tariff Act of 1930 makes it unlawful to engage in unfair acts or unfair methods of competition when importing or selling imported goods. Most Section 337 investigations concern alleged IPR infringement, usually involving U.S. patents.

The USITC conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedures Act. The proceedings normally involve trial-type proceedings before a USITC administrative law judge. If the USITC

finds a violation, it can order unfairly traded goods excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations include an order's effect on the public health and welfare, U.S. consumers, and the production of similar U.S. products.

If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. Importation of the subject goods may continue during this review process, if the importer pays a bond set by the USITC. If the President approves the order or takes no action within 60 days, the USITC's order becomes final. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit with possible appeal to the U.S. Supreme Court.

The USITC is also authorized to issue temporary exclusion or cease and desist orders prior to completion of an investigation if the USITC determines that there is reason to believe a violation of Section 337 exists.

In 1997, the USITC instituted 13 Section 337 investigations. The USITC issued 1 Ageneral@ exclusion order and 4 "limited" exclusion orders covering imports from one or more named foreign firms. The USITC also issued 3 Acease and desist@ orders to named U.S. firms regarding their use or further sale of imported infringing products. The President permitted these Section 337 orders to become final without presidential action in 1997.

Safeguard Actions (Section 201)

Section 201 of the 1974 Trade Act provides a procedure whereby the President may grant temporary import relief to a domestic industry seriously injured by increased imports. Relief may be granted for an initial period of up to four years, with the possibility of extending the action to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry, and may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also provides for the granting by the President of provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the USITC must determine that imports are entering the United States in such increased quantities as to be a substantial cause (not less than any other cause) of serious injury, or the threat thereof, to a U.S. industry producing a like or directly competitive product. Criteria for import relief set forth in Section 201 are based on Article XIX of the GATT, the so-called "escape clause," and the Uruguay Round Agreement on Safeguards. In cases in which the USITC reaches an affirmative injury determination, it may recommend to the President a particular form of relief.

One petition was filed under Section 201 in 1997, concerning wheat gluten. The petition was filed on September 19, 1997 by the Wheat Gluten Industry Council. The USITC investigation instituted on the basis of this petition was pending as of the end of 1997.

Trade Adjustment for Workers

The TAA program provides worker assistance through Title II of the 1974 Trade Act. Assistance includes trade adjustment allowances, training, job search and relocation allowances, plus reemployment services for workers

adversely affected by increased imports. Initially authorized by the Trade Expansion Act of 1962, the program is scheduled to expire on September 30, 1998.

For workers to be certified as eligible to apply for TAA, the Secretary of Labor must determine that workers in a firm have become or are threatened to become totally or partially separated; that the firm's sales or production have decreased absolutely; and that increases in like or directly competitive imported products contributed importantly to the total or partial separation, and to the decline in the firm's sales or production.

The U.S. Department of Labor administers adjustment assistance to workers through the Employment and Training Administration (ETA). Workers certified for trade adjustment assistance are provided a certification of eligibility and may apply for TAA benefits at the nearest office of the State Employment Security Agency. For the first time, the 1988 Trade Act amendments made training an entitlement. The amendments require eligible workers to have completed training or be enrolled in training as a condition for receiving trade readjustment allowances. This requirement may be waived by the State if training is not feasible or not appropriate.

Fact-finding investigations were instituted for 1,289 petitions in fiscal year (FY) 1997, a decrease from 1,693 petitions in FY 1996. In FY 1997, 857 petitions were certified or partially certified covering 108,816 workers, whereas 496 petitions covering 41,845 workers were denied or terminated. In contrast, 1,134 petitions were certified or partially certified in FY 1996, covering 119,070 workers, whereas 492 petitions, covering 62,489 workers, were denied or terminated.

Workers have been certified in a wide variety of industries under the TAA program. From April 1975 through September 1997 the seven industries with the largest concentration of certified workers were located in automotive equipment (806,294); apparel and other finished products made from fabrics and similar materials (436,635); primary metal industries (219,699); oil and gas production and services (162,011); leather and leather products (137,819); electrical and electronic machinery equipment and supplies (219,403); and fabricated metal products (64,936).

Trade Adjustment Assistance for Firms and Industries

The Trade Adjustment Assistance Division in the Department of Commerce's Economic Development Administration (EDA) administers the trade adjustment assistance (TAA) program for firms and industries authorized by Title II, Chapter 3, of the 1974 Trade Act. Authority for program assistance is scheduled to expire on September 30, 1998.

To be certified as eligible to apply for TAA, a firm must show that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in its sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers. Following certification, a firm may apply for technical assistance to develop and implement its economic recovery strategy. The TAA program also provides assistance to specific industries adversely impacted by import competition.

TAA's technical assistance to firms includes guidance in preparing certification petitions, general diagnosis of a firm's problems and opportunities for recovery, help in preparing adjustment proposals, examination of specific problems recognized by a firm's management, and in-depth assistance to firms in carrying out their adjustment proposals.

EDA's TAA program currently funds 12 Trade Adjustment Assistance Centers (TAACs). The TAACs are nonprofit, nongovernment organizations established to help firms qualify for and receive assistance in adjusting to import competition. In FY 1997, the TAA program provided $10.075 million in funding to the TAACs. From fiscal years 1979 to 1997 the

TAA program awarded cooperative agreements totaling $217.475 million to fund TAAC operations. A demonstration program to aid certified import-impacted firms that have also been impacted by defense downsizing continued in FY 1997.

The TAACs provide significant technical assistance to certified firms. TAAC staffs provide professional assistance to eligible firms in the assessment of their competitive situation and the development of their adjustment strategies. The TAACs also contract for the services of industry experts and management consultants to provide more detailed or more complex technical assistance to implement those strategies.

In FY 1997, the TAACs helped 153 firms resulting in certification of 159 firms. During the period FY 1979 to FY 1997, TAACs assisted more than 6,283 firms resulting in certification for more than 4,584 firms. Also during this time period, the TAACs provided diagnostic or implementation assistance to more than 4,000 certified firms. In recent years, TAACs have placed greater emphasis on providing firms with assistance in meeting quality standards and in-depth production, marketing, and management advice in implementing adjustment strategies.

A total of 6,568 petitions have been received during the program's 23-year existence (CY's 1975-1997). Of these, 4,600 firms were certified as eligible for benefits. Over this period, Commerce has certified 983 apparel firms, 502 metal product manufacturers, 470 machinery and equipment manufacturers, 226 electronics firms, 203 food growers and processors, 201 footwear companies, 179 textiles firms, 169 producers of handbags and parts, 148 wood products producers, and 126 communications equipment makers. During 1997 the top five certified industry groups were apparel, metal products, machinery and equipment, wood products, and electronics, respectively.

After a firm is certified, the TAA program must approve an adjustment proposal from the firm before the firm may submit a formal application for technical assistance. The adjustment proposal must show that the firm is aware of its strengths and weaknesses and has a clear and rational strategy for recovery from the import impact. All adjustment proposals submitted by certified firms are reviewed by EDA's Adjustment Proposal Review Committee (APRC) for final approval.

During FY 1997 the APRC reviewed 120 adjustment proposals and approved 117 of them. The 117 firms with approved adjustment proposals employed over 10,000 employees. The average firm size was over $6 million in sales, with an average of 91 employees. The adjustment proposals called for $10.4 million in technical assistance tasks, of which the average government share was 51 percent, while the firm share averaged 49 percent. Each firm is required to share at least 25 percent of the total project cost. The total average dollar investment per employee was $1,086. The cost of providing technical assistance to implement the accepted proposals averaged approximately $95,000 per proposal. From 1982 through 1997 over 1,788 firms have accepted adjustment proposals.

From 1978 to 1996 $44.4 million in industry-wide technical assistance was provided for export promotion, improving manufacturing productivity, and establishing new or expanding existing domestic markets for trade-impacted industries. Industries receiving assistance during this period included electronics, semiconductors, steel founding, gear manufacturing, apparel, jewelry, die casting, automotive parts, wire machinery, and furniture.

International Textile Arrangement

The Agreement on Textiles and Clothing (ATC), which entered into force on January 1, 1995, as part of the WTO agreements, superseded the Multifiber Arrangement (MFA). The ATC provides for the gradual and complete integration of apparel and textile products into the WTO regime over a ten-year transition period. (See WTO/Textiles Monitoring Body Section.) All Members of the WTO are subject to the

disciplines of the ATC, whether or not they were signatories to the MFA, and only Members of the WTO are entitled to the benefits of the Agreement.

Most of the significant suppliers of textiles and apparel products to the United States are Members of the WTO; accordingly, quota arrangements on a bilateral basis will now be governed by the provisions of the ATC. Regarding non-Members, the United States renegotiated or extended in 1997 expiring bilateral agreements with Laos, Oman, Taiwan, and Ukraine.

1997 also showed continued gains in the textile sector during the second year of implementation of the NAFTA. Trade turnover in this sector (the sum of exports and imports of yarns, fabric, apparel, and home furnishings) increased from $10.0 billion in 1995 to $15.8 billion, or by 57 percent, between the United States, Mexico, and Canada between 1995 and 1997(annualized). While much of the expansion was attributable to an increase in U.S. imports, U.S. exports to our NAFTA partners grew by 45 percent between 1995 and 1997 (annualized), to a level of nearly $6.9 billion. Forty percent of our sector exports in 1997 were to Mexico and Canada.

Generalized System of Preferences

The Generalized System of Preferences (GSP) is a program that grants duty-free treatment to specified products that are imported from more than 140 designated developing countries and territories. The program began in 1976, when the United States joined 19 other industrialized countries in granting tariff preferences to promote the economic growth of developing countries through trade expansion. Currently, more than 4,400 products or product categories (defined at the eight-digit level in the Harmonized Tariff Schedule of the United States) are eligible for duty-free entry from countries designated as beneficiaries under GSP. In 1997, an additional 1783 products were made duty free under GSP for countries designated as least developed beneficiary developing countries (LDBDCs).

The premise of GSP is that the creation of trade opportunities for developing countries is an effective, cost-efficient way of encouraging broad-based economic development and a key means of sustaining the momentum behind economic reform and liberalization. In its current form, GSP is designed to integrate developing countries into the international trading system in a manner commensurate with their development. The program achieves these ends by making it easier for exporters from developing economies to compete in the U.S. market with exporters from industrialized nations while at the same time excluding from duty-free treatment under GSP those products determined by the President to be "import sensitive." The value of duty-free imports in 1996 was $17 billion.

In addition, the U.S. GSP program works to encourage beneficiaries to eliminate or reduce significant barriers to trade in goods, services, and investment, to afford all workers internationally recognized worker rights, and to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights.

An important attribute of the U.S. program is its ability to adapt, product by product, to changing market conditions and the changing needs of producers, workers, exporters, importers and consumers. Modifications can be made in the list of articles eligible for duty-free treatment by means of an annual review. The process begins with a Federal Register notice requesting the submission of petitions for modifications in the list of eligible articles. Those that are accepted are made subjects of public hearings, preparation of a USITC study of the "probable economic impact" of granting the petition, and a review of all relevant material by the GSP interagency committee. Following completion of the review, the President announces his decisions in the spring on which petitions will be granted.

Although the program was originally authorized for ten years and subsequently reauthorized for eight years, Congress has recently renewed the

program for only brief periods of one or two years. The GSP program has lapsed temporarily several times--September 30, 1994; July 31, 1995; and May 31, 1997. Each time it was reauthorized after a delay and applied retroactively to the previous expiration date, thus maintaining the continuity of the program benefits.

One major change was included in the 1996 reauthorization. Congress authorized the extension of GSP eligibility to an additional 1895 products provided they are imported only from LDBDCs and as such are determined by the Administration not to be import sensitive. The President in 1997 determined that 1783 of the proposed 1895 articles could be made eligible for GSP The intent of this change in the GSP program is to provide exclusive benefits to this class of countries which so far and with few exceptions, have not been major gainers from the program.

The 1997 Annual GSP Product Review was initiated immediately after the program was renewed in August 1997. Petitions for modifications in the eligibility status of GSP products were requested and hearings were held in October on those that were accepted for review. Following completion of the review, the President will announce his decisions on GSP product changes in mid-spring. These will be implemented in July. In addition to the product review, three country practice cases were accepted for review. Two involve Belarus and Swaziland concerning violations of internationally recognized worker rights. The third case involves Philippine restrictions on access to its pork market.

In addition, longstanding lack of progress in resolving violations of intellectual property rights led to a partial suspension of Argentina's GSP benefits in April 1997.