Report of the Commission on United States–Pacific Trade and Investment Policy

Building American Prosperity in the 21st Century

U.S. Trade and Investment in the Asia Pacific Region

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ACKNOWLEDGMENTS

The Commission wishes to thank the following individuals for their assistance throughout the research and drafting phases of its work: Grant Aldonas, Philip Budwick, Eric Drabiuk, Marc Glosserman, Joseph Pon, Kirk Rubida, David Walters, and Julie Wolcott. The Commission would also like to extend its deep appreciation to those who testified as expert witnesses and others who assisted in the Commission's work.

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Commission on United States–Pacific
Trade and Investment Policy
Washington, D.C. 20508

April 1997

Dear Mr. President:

On behalf of my colleagues, I am proud to present you with the report of your Commission on U.S.-Pacific Trade and Investment Policy. Our mandate was to recommend steps the United States should take to achieve greater opening of Asia Pacific markets for U.S. companies in order to create better jobs for American workers. We have defined Asia Pacific as Brunei Darussalum, China, Hong Kong, Indonesia, Japan, Malaysia, the Philippines, Singapore, South Korea, Taiwan, and Thailand.

The United States is now enmeshed in the world economy with trade amounting to 30 percent of our gross domestic product. Today, international trade is more than twice as important as it was just twenty-five years ago. Our welfare and security and our ability to fulfill the American dream depend more than ever on how well we perform in the global marketplace.

The Asia Pacific region is key to our international success. It is the largest producing, the biggest trading, the most populous, the fastest growing, and the most dynamic region in the world. The United States has done well in the region, our exports have increased nearly fourfold in the last ten years. One sector in which we have done particularly well is high-technology. It is for this reason we have chosen to highlight a section in the Observations and Findings section on the Information Age. By setting this section slightly apart, we believe that U.S. government and business leaders should give greater consideration to the impact of the Information Age on our trade and investment relations. However, in our overall trade and investment relations we could be doing a lot better if we had the same access to Asia Pacific markets as they have to ours. Asia Pacific presents some of America's most vexing trade barriers and most unbalanced trade relationships. The significant and persistent trade deficits with Asia Pacific, particularly Japan and China, demand effective market opening action by the United States in order to insure continued support of the American people for our trade policies.

Your Commission, consisting of members with a substantial amount of "hands-on" experience in the Asia Pacific region, consulted with experts, visited the region, and debated at great length the issues covered in this report. It is important to note that even though we had viewpoints ranging across the entire ideological spectrum, all but three of the Commissioners agreed with the final report. (These three have written an eloquent dissent which is included with the Commission's Report.) The fact that such a diverse group came to agreement on so many issues makes it likely that the report's recommendations will be supported by the American people.

The Commission is indebted to Senator Jeff Bingaman who first and forcefully advocated the creation of the Commission to you. Your decision to create the Commission reflects your similar understanding of the importance of trade with Asia Pacific to the economic welfare of America.

The Commission believes that the opportunities and challenges that lie ahead in our relationships with Asia Pacific must be embraced and addressed with equal vigor. For this reason, the Commission has outlined a number of steps that could be taken to enhance American trade and investment relations with the Asia Pacific region in a way that creates more high wage jobs in the United States and enhances America's global competitiveness.

It has been an honor for all of us to serve on this Commission; we hope that our work stimulates policy discussion on how to better deal with the Asia Pacific countries as well as to help educate the American public on the growing importance of this dynamic region to America's future.

Yours truly,

Kenneth D. Brody

Kenneth D. Brody
Chairman
Commission on U.S.-Pacific Trade and Investment Policy

Commission on United States–Pacific
Trade and Investment Policy
Washington, D.C. 20508

April 1997

Dear Member:

On behalf of my colleagues, I am proud to present you with the report of the Commission on U.S.-Pacific Trade and Investment Policy. Our mandate was to recommend steps the United States should take to achieve greater opening of Asia Pacific markets for U.S. companies in order to create better jobs for American workers. This report represents one year of our research, deliberations, and recommendations for future U.S. trade and investment policy towards the nations of Brunei Darussalam, China, Hong Kong, Indonesia, Japan, Malaysia, the Philippines, Singapore, South Korea, Taiwan, and Thailand.

The Commission was established in the spring of 1996 by the President on the initiative of your colleague, Senator Jeff Bingaman. Members of the Commission include leaders from business, journalism, labor, and academia, who have a substantial amount of "hands-on" experience in the Asia Pacific region. I along with Commission vice chairman Clyde Prestowitz chaired 13 formal meetings and numerous informal sessions, and also led a fact finding mission of the Commission who have written an eloquent dissent which is included with the Commission's report.

The Asia Pacific region is key to our international success. It is the largest producing, the biggest trading, the most populous, the fastest growing, and the most dynamic region in the world. The United States has done well in the region, our exports have increased nearly fourfold in the last ten years. However, we could be doing a lot better if we had the same access to Asia Pacific markets as they have to ours. The significant and persistent trade deficits with Asia Pacific, particularly Japan and China, demand effective market opening action by the United States in order to insure continued support of the American people for our trade policies.

It has been an honor for all of us to serve on this Commission. We hope that our findings and recommendations will stimulate more debate in the Congress on our economic relations with the fastest growing region in the world. We also hope that this report will promote greater public awareness of the importance of our trade and investment relations with the Asia Pacific region.

Yours truly,

Kenneth D Brody

Kenneth D. Brody
Chairman
Commission on U.S.-Pacific Trade and Investment Policy

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Executive Summary

Introduction

In the aftermath of World War II, few Americans believed that the war torn economies of Asia Pacific would someday rival the advanced economies of North America and Europe. However, 52 years after the end of World War II and only 22 years after U.S. withdrawal from Vietnam, the United States faces a bold new era full of economic opportunities and challenges in a region that has far surpassed the world's expectations and become one of the most vibrant parts of the global economy. Asia Pacific's rise to industrial status has stimulated tremendous global interest in the region. However, the importance of the region to the future of the United States has yet to fully capture the imagination of American government and business leaders.

The explosive growth of Asia Pacific economies has been fueled by indigenous aspirations for better living standards and facilitated by a liberal international trading regime anchored by an open U.S. market. Growth has also been sustained through unilateral trade and investment liberalization within the region. For the United States, the opportunities of Asia Pacific are promising. The United States stands to gain from a stable and growing economic engagement with the region. Increased exports to the region will positively impact U.S. employment opportunities and help raise American living standards, however, many Asia Pacific economies continue to have barriers to trade and investment that prevent the United States from having adequate access to their markets. These conditions have led to a commercial relationship between the United States and Asia Pacific that is both full of promising possibilities and vexing problems.

In an era where trade is having a larger impact on job creation and living standards, a fair and equitable trade and investment relationship with Asia Pacific is critical to the American people. Business and government leaders must act soon to implement policies that are designed to help maximize U.S. comparative advantage in the region and further reduce trade and investment barriers. A second "American Century" is about to begin. This time, the opportunities for prosperity lie across the waters of the Pacific.

Observations and Findings

Trade and foreign investment are of unprecedented importance to the U.S. economy. In 1995, exports and imports of goods and services and the return on U.S. investment abroad equaled almost 30 percent of U.S. gross domestic product (GDP), up from 13 percent in 1970. More than ever, the welfare of the American worker is dependent upon U.S. competitiveness in the global economy. By the end of 1996, U.S. exports of goods and services supported an estimated 11.3 million jobs and American workers in export manufacturing firms earned between 11 and 18 percent more than the average manufacturing wage in the United States. Moreover, imports enable American consumers to stretch their incomes, buying more of what they want at competitive prices. Growing U.S. investment overseas has also contributed to American prosperity, enabling U.S. firms that invest overseas to significantly increase their exports.

The globalization of the U.S. economy has also brought about new challenges and problems for American society. Although exports have increased, the trade imbalance has grown worse. Greater international competition has, at times, led to job dislocations, resulting in calls for everything from greater access to foreign markets, protectionism, and disengagement from the global economy. These demands will only gain greater acceptance unless the benefits of trade are more tangibly experienced by American workers and companies at large.

As the significance of trade and investment to the growth of the U.S. economy increases, it is imperative to have trading partners with strong growth potential. The Asia Pacific economies have averaged 6.6 percent growth annually over the last decade - 9 percent excluding Japan – and will account for nearly a third of the global economy by the year 2000. In the future, most Asia Pacific economies are expected to grow at three times the rate of the U.S. economy.

Such rapid growth has already fed a flourishing demand for U.S. goods and services. The region is by far America's best customer, purchasing 30 percent of U.S. goods and absorbing more than $40 billion of U.S. foreign direct investment between 1991 and 1995. The American worker also has gained from trade and investment relations with Asia Pacific. Between 1989 and 1993, one of every six new jobs created in the U.S. was attributable to trade with the region's economies. The potential benefits for the U.S. economy in the future are great. The rapidly growing Asia Pacific economies will spend $1.5 trillion on new infrastructure development in the next decade alone.

High-technology is vital to U.S. competitiveness in Asia Pacific. The United States remains the largest exporter of technology products in the world. Having made development of high-technology industries and infrastructure a priority within their growth strategies, the fast growing economies of the Asia Pacific region are in a position to purchase large amounts of high-tech products and services from the United States. Increased exports of high-tech goods to Asia Pacific will contribute to job creation and improving living standards. U.S. high-tech industries on average earn roughly 70 percent more than the average national wage.

Impeding the potential growth of U.S. trade and investment with Asia Pacific are tariff and non-tariff barriers that restrict market access to the region. Without the elimination of these barriers, the full potential of economic relations with the region will never be realized. Tariffs on manufactured products applied by developed countries in Asia Pacific are relatively low, but tariff peaks still exist. Average tariffs rates for developing economies in the region are higher and individual tariffs can be extremely high. More problematic are non-tariff trade barriers that persist in Asia Pacific, including licensing of production, government procurement and offsets, and phytosanitary and technical standards that discriminate against foreigners. U.S. exports to Asia Pacific are also inhibited through piracy of technology and intellectual property such as patents, trademarks, and copyrights.

Finally, U.S. exports and investment are impaired by the persistence of private and public anti-competitive practices and poor enforcement of antitrust laws. Many Asia Pacific governments actively intervene in their domestic markets to protect favored industries. Furthermore, government bureaucracies in some countries use administrative guidance to intervene in the economy to influence business decisions to bolster exports and limit foreign direct investment. Many Asia Pacific economies keep foreign firms out of the domestic market through preferential business relationships, price-fixing, bid-rigging, and market allocation arrangements among competitors. Foreign direct investment barriers also limit the expansion of U.S. exports and the flow of U.S. capital into Asia Pacific markets. Many Asia Pacific countries have longstanding traditions of limiting foreign direct investment in their economies. For many years, the U.S. has had an active program to advance investment disciplines and provide fair and equitable treatment for U.S. investors abroad. Unfortunately, these efforts have been unsuccessful in the Asia Pacific region. Many of these barriers and practices that have limited foreign competition in domestic markets have been a result of policies that rely less on domestic demand and more on exports for economic growth. Such policies have impaired U.S. efforts to export more into the Asia Pacific region.

The continuation of trade and investment barriers in Asia Pacific has exacted a cost on U.S. economic growth and has had a negative impact on U.S. economic welfare and competitiveness. Any efforts to reduce trade and investment barriers in Asia Pacific may prove more difficult in the future because they must take place in a new trade policy environment. The World Trade Organization (WTO) has established a new, multilateral venue for dismantling trade and investment barriers with stronger, more comprehensive trade rules and an efficient dispute settlement mechanism applying to all member countries. Furthermore, the Asia Pacific Economic Cooperation forum (APEC) serves as an additional plurilateral forum which the United States can use to address trade and investment barriers within the region. Nonetheless, many issues of great importance to U.S. competitiveness in the region remain outside the purview of the WTO, and APEC's non-binding character creates doubts about its ability to deliver steady progress towards market liberalization. For this reason, while the effectiveness of purely bilateral market opening efforts on the part of the United States has diminished in recent years, such initiatives will still occasionally be necessary to deal with persistent commercial barriers not adequately covered by multilateral and regional disciplines.

In addition to directly addressing trade and investment barriers in the region, the United States must place a higher priority on U.S. engagement in Asia Pacific. Companies are only just beginning to station senior corporate officers in the region and term-financing for overseas development and projects has been insufficient. Although U.S. corporate investment in Asia Pacific has increased over 80 percent from 1991 to 1995, the United States still must contend with aggressive European and Japanese competitors. The sheer physical distance between Washington and Asia Pacific capitals, combined with competing U.S. policy priorities, has resulted in episodic and insufficient attention to the region by high level government officials. The U.S. government has also failed to provide adequate resources to bolster U.S. economic involvement in Asia Pacific. Overall government spending on trade promotion has dropped from $691 million in 1995 to $323 million in 1997, impairing trade expansion in the region. Furthermore, in 1996, the United States allocated only $684 million in foreign aid to Asia Pacific, just 4 percent of total U.S. foreign assistance. Japan gave Asia Pacific nations $4.1 billion in foreign aid in 1996, 31 percent of its total development assistance. Such Japanese aid, unlike U.S. assistance which is geared towards social and health related development, often targets technical assistance, paving the way for exports. European nations also have allocated a larger proportion of their aid to Asia Pacific.

Tremendous economic opportunities, persistent trade and investment barriers, and insufficient attention to the region characterize the conditions of U.S. economic relations with Asia Pacific. The Commission has formulated its recommendations based on these broad observations. Some countries have received more Commission attention than others, but the central thrust of the Commission's report has been to put forth recommendations to promote greater market access for U.S. companies throughout the region. Implementation of these recommendations in a timely fashion will generate significant gains for the U.S. economy and workers.

Recommendations

Recommendation 1: China

- **The United States should continue to lead the effort to integrate China into the global economy and continue to support China's accession to the World Trade Organization. China's accession to the WTO should be conditioned on commercially viable terms. The United States should be inflexible on China's agreement to all WTO principles, but flexible with regard to the time frame for implementation of other WTO obligations. Furthermore, the United States should assist China in its economic transformation from a government controlled economy to one that is more market-oriented. It is essential that the United States pursue improved market access for U.S. goods through bilateral and regional initiatives, as well as through negotiation for accession to the WTO. Moreover, negotiation of China's accession to the WTO should be completed before any action is taken with regard to granting permanent Most-Favored-Nation (MFN) status to China.**

Recommendation 2: Japan

- **Japan is one of the world's largest economies and must play its proportionate role in creating a fair and open marketplace. The United States should continue its efforts to gain greater access to the Japanese market for U.S. exporters and investors. Structural talks and sectoral negotiations are needed to insure that rules governing access to the Japanese economy in various sectors provide for equitable trade. Market opening initiatives should use all sources of U.S. leverage in any trade forum that is likely to maximize U.S. economic interests, including the WTO, APEC, and government-to-government talks. To broaden the scope of the U.S.-Japan economic dialogue, the United States government should study the feasibility of negotiating a Comprehensive Market Agreement with Japan that would go beyond a standard free trade agreement and develop agreed upon procedures to deal with anti-competitive business practices, investment restrictions, administrative guidance, and other trade restrictions.**

Recommendation 3: Domestic Initiatives: Fast Track Negotiating Authority and Economic Balance of Benefits Study

- **Broad negotiating authority for the Executive Branch and fast track Congressional approval procedures should be renewed immediately. Fast track authority would permit the United States to participate fully in APEC trade liberalization, negotiate selective free trade areas with Asia Pacific countries, and advance initiatives in the WTO to address specific trade problems. Furthermore, in order to assure that trade agreements bring tangible benefits to the U.S. economy, an economic balance of benefits study should be prepared at the conclusion of major trade agreements.**

Recommendation 4: Competition Policy

- **The Administration should formulate a coherent policy to address problems of market access arising from anti-competitive behavior in foreign markets. This policy should be formulated in consultation with Congress and the private sector to ensure domestic support for possible changes, to the extent appropriate, in trade and domestic antitrust legislation. The U.S. government should also initiate international discussions on improving cooperation between national competition authorities and provide technical and educational support for nations attempting to implement antitrust policy. The U.S. government should also conduct an annual review of abuses and progress in the international use of competition policy and pursue bilateral and plurilateral competition policy agreements. Where sustained price differentials between U.S. and foreign markets suggest anti-competitive practices abroad, the United States government should self-initiate dumping cases or, where appropriate under law, issue cease and desist orders against those anti-competitive foreign practices that restrict U.S. commerce.**

Recommendation 5: Human Rights, Worker Rights, and the Environment

- **International human rights, worker rights, and environmental protection are core ideals and goals of the United States. The United States should work with the Asia Pacific nations in multilateral fora to help promote human rights in a manner balanced with U.S. commercial interests. The United States should also support an active international dialogue on the relationship between trade and labor and encourage collaboration between the International Labor Organization and the World Trade Organization. On the environment, the United States should promote a dialogue on trade and environment and support the APEC environmental agenda. In addition, a review of the environmental implications of any free trade agreements made with Asia Pacific countries should be undertaken by the government. The United States should work with the Group of Seven (G-7) countries to develop a coordinated approach to international environmental policy, including common environmental guidelines for export credit agencies.**

Recommendation 6: Foreign Direct Investment Liberalization

- **Foreign direct investment lays the foundation for robust trade in goods and services. The United States should work to conclude the Multilateral Agreement on Investment (MAI). Upon completion of the agreement, the United States and the OECD should encourage non-OECD countries in the Asia Pacific region to join. The United States should also foster greater regional and bilateral dialogue on the merits of investment liberalization and persuade Asia Pacific nations to enter into Bilateral Investment Treaties with the United States. Forced technology transfer as a precondition for foreign direct investment should be actively opposed by the U.S. government.**

Recommendation 7: Multilateral Solutions to Asia Pacific Trade and Investment Problems

- **Primary fora for resolving trade and investment problems have shifted from bilateral to multilateral venues. The United States should continue to promote its Asia Pacific interests through active use of the WTO's dispute settlement mechanism and expansion of the WTO's rules. U.S. trade negotiators should be mindful that despite the Most-Favored-Nation and National Treatment provisions of the WTO, inequities in the global trading system remain. U.S. trade policy should be guided by principles of mutuality and contestability of markets.**

Recommendation 8: APEC and Selective Free Trade Areas

- **The United States should encourage APEC to produce concrete initiatives that further trade and investment liberalization in Asia Pacific. The United States should continue to use APEC as a major anchor for American engagement in Asia Pacific as long as it delivers steady progress on regional integration, economic cooperation, and trade**

liberalization. To further trade liberalization, the United States should pursue selective bilateral and plurilateral free trade areas with interested Asia Pacific trading partners.

Recommendation 9: Exchange Rates

- **The United States government should pay careful attention to the impact of exchange rates on U.S. commerce. The United States should ensure that foreign governments do not manipulate their exchange rates to achieve competitive advantage.**

Recommendation 10: Greater Priority to Asia Pacific

- **U.S. economic prosperity is tied to Asia Pacific. U.S. trade and investment interests in Asia Pacific should be given higher priority within the U.S. government. The United States should establish a permanent high-level trade and commercial office in Asia Pacific headed by a Special Representative of the President to monitor economic trends in the region, execute trade and investment policies, assist in trade negotiations, and advocate U.S. commercial interests in Asia Pacific. Furthermore, greater government resources should be allocated for monitoring trade agreements with Asia Pacific economies.**

1 Introduction

On the threshold of a new millennium and at the center of a rapidly growing global marketplace, the American economy faces a future of unprecedented possibilities and unparalleled challenges. Nowhere is this more evident than in America's commercial relationship with Asia Pacific.[1]

For most of the post-war era, the fate of the United States was largely determined by domestic events. Now, America has an economy that is inextricably linked to the world around it. A third of recent U.S. economic growth and nearly a quarter of recent U.S. job creation come from exports.[2] High wage American jobs are increasingly dependent on exporting and the living standards of American citizens are increasingly reliant upon foreign trade. The profitability and survival of American firms, large and small, are more and more determined by how they fare in the global marketplace.

The continued well-being of this new American economy is, in large part, dependent upon developments overseas. Nowhere in the world is the U.S. stake greater than in the rapidly growing Asia Pacific economies arrayed along the western shores of the Pacific Ocean. In recent years, this Asia Pacific region has become the fastest growing foreign market for U.S. goods and services, the largest exporter to the United States, and the most popular new destination for U.S. foreign direct investment.

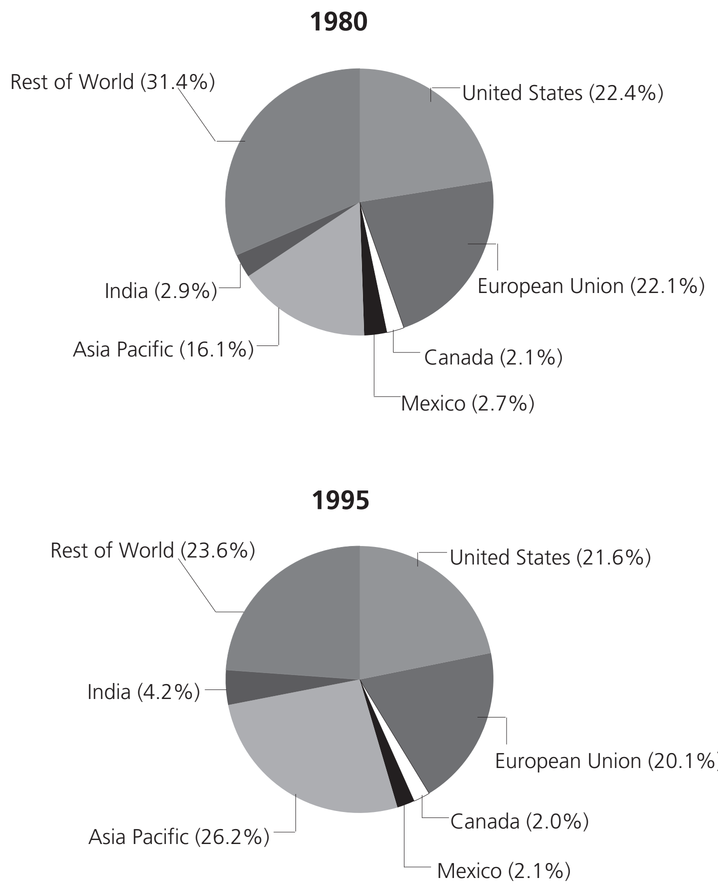
Much of the future success of the U.S. economy will depend on how well America capitalizes on the growth of the Asia Pacific region; although opportunities are great, there are frustrating obstacles. Despite significant progress on the part of many Asia Pacific governments to open their economies to foreign competition, significant trade and investment barriers still inhibit U.S. market access in many nations in the region. Differing economic philosophies and protectionist government practices sustain sanctuary markets for key industries, enabling them to export to the United States with only limited competition in their domestic markets from American and foreign companies.

In the past, the United States has often ignored or misunderstood developments in Asia Pacific. Americans have been slow to fully appreciate the fundamental importance of the region to American economic vitality. U.S. policy toward the region has been inconsistent, mixing political and economic objectives. America can no longer afford the luxury of such behavior. If the United States is to fully capitalize on economic developments in Asia Pacific, then the American government must launch a series of initiatives designed to increase U.S. exports and investment in the region, from China in the north to Indonesia in the south.

The opportunities must be capitalized on immediately. As Asia Pacific economies mature, the intimate business relationships in the region and complex governmental policies and laws that regulate them will be increasingly difficult to penetrate or change. America's principal competitors in the region—Japan, the nations of the European Union, and some of Asia Pacific's own newly industrial nations—are not standing still. They are rapidly expanding their trade and investment presence in the region. If U.S. businesses do not compete head-to-head and local laws are not put into place to insure open competitive markets, the United States risks not being able to fully capitalize on its competitive strengths in Asia Pacific.

FIGURE 1

World Gross Domestic Product in 1980 and 1995



Note: GDP estimates are based on purchasing power parity computations rather than on conversions at currency exchange rates made by Summers and Heston in PENN World Table 5.6 (For discussion of their basic methodology see "Quarterly Journal of Economics," May 1991); GDP estimates for OECD and EU for 1970-90 include former West Germany and for 1991–1995 include unified Germany.

Source: CIA Handbook of International Economic Statistics, 1996.
Source: Forecast – DRI McGraw Hill

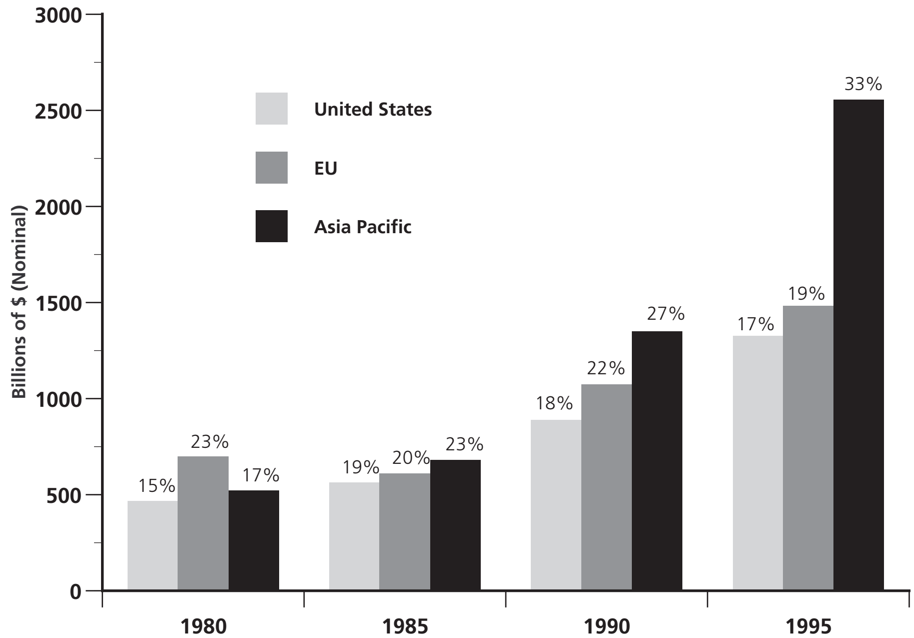
If regional trade and investment barriers facing U.S. businesses continue to inhibit U.S. commerce, it will be increasingly difficult to sustain public support for maintaining open markets in the United States. Such a development would be detrimental for the United States and gravely injurious to the economies of Asia Pacific. An active U.S. policy toward trade and investment in the Asia Pacific region must become a national priority.

Asia Pacific Opportunities

Asia Pacific has undergone a dramatic transformation in recent years and is now one of the most vibrant regions of the global economy. The region of 11 nations now accounts for 33 percent of global trade and 26 percent of world GDP,[3] up from 17 percent and 16 percent respectively only 15 years ago.[4]

FIGURE 2

U.S., EU, and Asia Pacific Merchandise Trade as a Percent of World Trade*



*** Excludes intra-EU & EEC trade. Note: EEC in 1980 and 1985**

Source: International Monetary Fund – Direction of Trade Statistics Yearbook 1986, 1992, 1996

Source: U.S. Data – Total Exports Free Along Side (FAS)/General Imports Customs Value Basis

The dramatic emergence of Asia Pacific has translated into a wide range of trade and investment opportunities for the United States. In 1995, the region accounted for 35 percent of total U.S. trade, 30 percent of total U.S. exports, and 40 percent of U.S. imports. Asia Pacific purchases of U.S. goods and services have almost quadrupled in the last ten years, from around $47 billion in 1985 to $175 billion in 1995.[5] U.S. imports from the region have more than doubled, rising from $122 billion in 1985 to $295 billion in 1995. Much of this trade is the result of U.S. foreign direct investment into the economies of Asia Pacific, which has grown faster than to any other region in the past ten years and currently equals almost $100 billion.[6]

This growing commerce links the United States to both the richest nations in the region and to the poorest. From 1985 to 1995, U.S. trade with Japan, whose per capita income approximates that of the United States, grew by 106 percent. Over the same period, U.S. trade with China, whose per capita income is a tenth of that in America, expanded nearly 600 percent. Commerce with the newly industrial countries of Hong Kong, Taiwan, and South Korea grew 160 percent, while trade with the Association of Southeast Asian Nations (ASEAN) of Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand grew 350 percent.

As a result of this burgeoning commerce, the Asia Pacific market and individual national economies in the region now rival many traditional U.S. trading partners in their importance for U.S. exports. Outside of Canada, Japan buys more from the United States than any other country and South Korea now imports more from the United States than does Germany. Taiwan and Singapore now each purchase more U.S. goods and services than do either France or Italy. U.S. investment into the region in recent years has grown faster than U.S. investment in either Europe or Latin America.

Asians are already the fastest-growing consumers of U.S. products, and the commercial opportunities for American business in the awakening Asia Pacific economies will only grow over time. The number of Asian consumers is mushrooming as populations expand. Although incomes remain low in some countries, individual purchasing power is growing much faster than that in the more mature American and European economies. Rising incomes are creating an ever larger middle class in the region, with a healthy potential demand for U.S. food products, computer software, and financial services. (See Figure 4 on page 6)

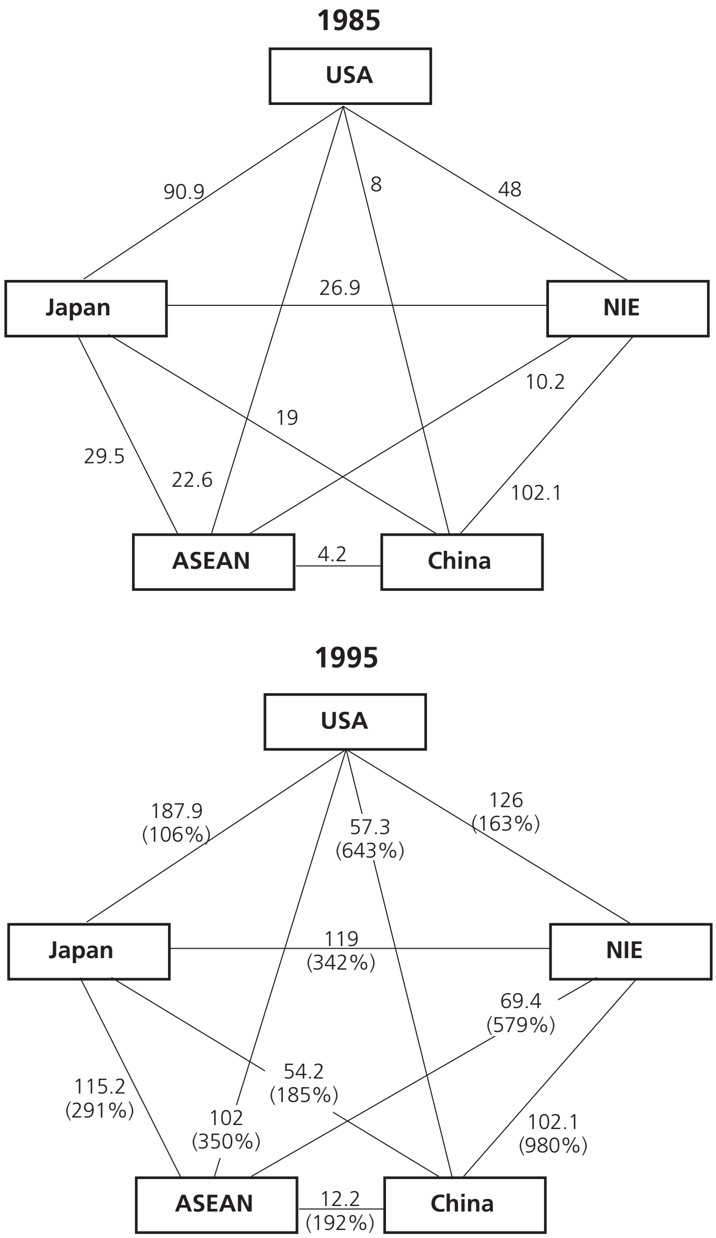
An unprecedented wave of trade and investment liberalization on the part of the Asia Pacific economies has also played an important role in the region's economic dynamism. Over the last decade, countries in Asia Pacific such as Taiwan, Indonesia, the Philippines, and Thailand have unilaterally liberalized many key sectors of their economies. In the Philippines, tariffs were reduced from an average of 28 percent in 1988 to 15.6 percent in 1996 and they will be reduced to a uniform 5 percent for non-agricultural products by 2004. South Korea reduced its tariff rates from an average of 19 percent in 1988 to 8 percent in 1996. Moreover, through APEC and the WTO, the economies of the region have committed to continue reducing tariffs and other impediments to trade and investment and to achieving free trade in the region no later than 2020. Such liberalization on the part of the region's economies will help create a more prosperous environment for U.S. economic interests in Asia Pacific.

Asia Pacific Challenges

The opportunities for U.S. trade and investment that result from the economic rise of Asia Pacific will remain unrealized, however, unless there are more equitable commercial relations with the region. Traditional trade barriers continue to impede commerce in Asia Pacific. Many such trade barriers will persist even after the full implementation of the Uruguay Round trade agreement. Fully capitalizing on the economic possibilities requires further reduction in Asia

FIGURE 3

Intra-Asia Pacific Merchandise Trade 1985-1995
Billions of Dollars

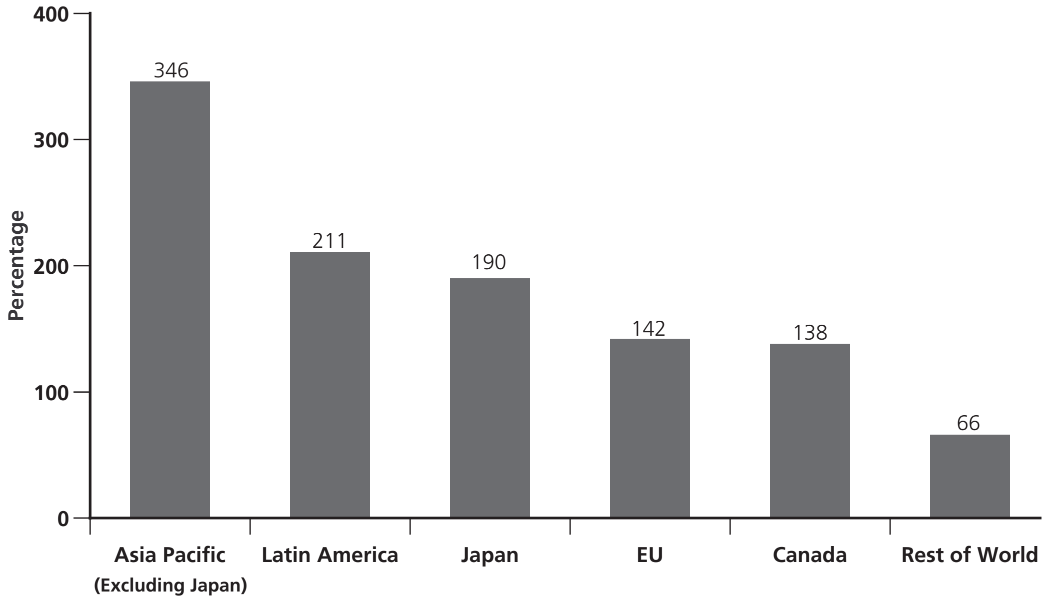


Notes:

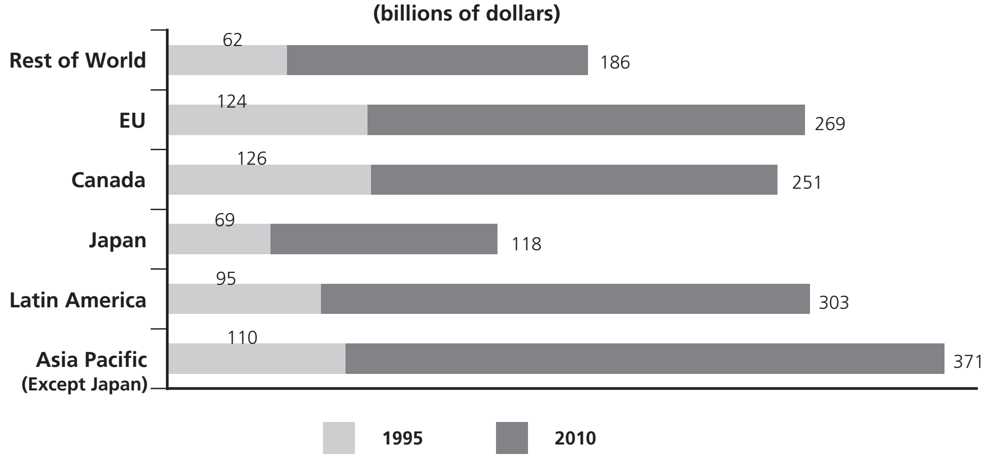
1. **Billions of U.S. dollars**
   Trade values = exports + imports
2. **Trade values between U.S. and other partners based on U.S. statistics**
3. **Trade values between Japan, China, ASEAN (5), and NIEs based on Japan statistics**
4. **Trade values between NIEs and China/ASEAN based on NIEs statistics**
5. **Trade values between ASEAN and China based on ASEAN statistics**
6. **ASEAN comprised of Singapore, Malaysia, Indonesia, the Philippines, and Thailand**
7. **NIE (Newly Industrialized Economies) comprised of Hong Kong, Taiwan, and South Korea**

FIGURE 4

Merchandise Export Growth: 1985–1995



Current and Projected U.S. Exports*
(billions of dollars)



* Based on U.S. Government estimates of growth in foreign export markets and the assumption that the U.S. share of those markets remains constant.

Merchandise exports are estimated to be $582 billion in 1995 and are projected to rise to $1,735 billion in constant 1990 dollars and $2,177 billion in current 1995 dollars, based on historic trends in export price inflation.

Source: Official Statistics of the U.S. Department of Commerce
Forecast Data: DRI McGraw Hill

Pacific trade barriers that include high tariffs and the use of standards and regulations to discriminate against imported agricultural and manufactured products.

Non-traditional barriers to commerce reflect profound differences in economic philosophy across the Pacific. In many Asia Pacific economies, bureaucrats exercise broad discretionary authority to guide the economy. Many governments embrace an interventionist approach to economic development that is at odds with free market philosophy. The governments of Indonesia, China, and Malaysia persist in attempting to nurture their budding auto and electronics industries in a hot-house environment protected from the cold blasts of international competition. In addition, cartels and collusion among ostensible business competitors are tolerated and, at times, encouraged by many Asia Pacific authorities. Two firms control 85 percent of the South Korean auto and truck market. Parts suppliers associated with major Japanese auto firms provide 96 percent of all auto parts used in cars manufactured in Japan. Laws and regulations to restrict such practices either do not exist or are weakly enforced. These factors create a business environment that makes Asia Pacific markets extremely difficult to penetrate, denying foreigners the benefits of any comparative advantage they may have in the production of a good or service.

While inhibiting imports, many Asia Pacific governments have also promoted exports rather than domestic demand to spur economic growth. Domestic exporters have received preferential treatment and foreign investors have been forced to agree to export a portion of their production and transfer technology. Often, the American market has been the target of these exports, creating economic dislocation in the United States.

Once, because of the Cold War, such differences in economic philosophy were overlooked and such protectionist, discriminatory policies enjoyed tacit U.S. blessing. Today, these exclusionary business practices pose unacceptable obstacles to U.S. commerce in the region.

Asia Pacific Differences

Capitalizing on economic opportunities in Asia Pacific while dealing with these trade and investment problems is complicated by the fact that the region is an ethnically, culturally, and geographically complex and diverse part of the world. Each country has its own historical and economic experience making it impossible to reduce the region to a single model of trade or political economy.

In recent years, China has had double digit economic growth. In the 1990s, Japan's economy has slowed down dramatically, only achieving zero to low single digit growth levels. Despite rapid increases in wealth, disparities in national income are wide in Asia Pacific. Hong Kong and Singapore have per capita incomes higher than those in Italy or Spain. The Philippines has a lower per capita income than that in the Ukraine or Belarus.

Japan, South Korea, and Taiwan are industrial countries with a long history of national industrial policies and government direction of their economies. Singapore is a city-state with an extremely open economy. China is a mixture of a Communist-led centralized economy and a burgeoning free enterprise market economy that offers vast opportunities hidden amid layers of opaque regulations. Widespread economic diversity also exists throughout Southeast Asia.

Asia Pacific diversity mandates that U.S. relations with the region be attuned to complex issues. Attitudes toward human rights differ widely. Labor and environmental standards are uneven. Business practices and governmental norms vary from country to country. In the past, lack of appreciation for these differences has often stymied the pursuit of U.S. trade and investment goals. In the future, effective U.S. policies to increase market access for U.S. exports and investment in the region must be predicated on a discerning and in-depth understanding of the similarities and differences inherent in the Asia Pacific economies.

Conclusion

For the rapidly globalizing U.S. economy, Asia Pacific is a region of vast opportunity and daunting challenge. To prosper in the future — to create more high paying jobs in the United States — America needs to export and invest abroad. Without greater access to the Asia Pacific market, that ambition will be frustrated. But U.S. access to those markets is still often impaired by entrenched trade and investment barriers that reflect differing history, custom and economic goals. The challenge facing the U.S. government in Asia Pacific in the 21st century is to lower trade and investment barriers while taking into account political and economic differences within the region. The future well-being of American workers and U.S. industry demands it.

The Commission and its Mission

The Commission on United States-Pacific Trade and Investment Policy, first advocated by Senator Jeff Bingaman of New Mexico, was created by President William Jefferson Clinton pursuant to Executive Order 12964 on June 21, 1995. Recognizing the dynamism of the Asia Pacific region and its importance to the future welfare of the United States, President Clinton selected a group of experts with various professional backgrounds to take a fresh look at U.S. economic relations in the region. The Commission was fully constituted in March 1996 under the chairmanship of Kenneth D. Brody, former Chairman and President of the Export-Import Bank of the United States, and the vice-chairmanship of Clyde V. Prestowitz, President of the Economic Strategy Institute. The Commission was directed to develop recommendations on how to "achieve increased access for United States business in Asia Pacific markets by the turn of the century in such a way that a maximum number of high wage jobs are created and maintained in the United States." In pursuit of this objective, the Commission held hearings from May through August 1996 at which it solicited the views of a variety of business, labor, human rights, environmental, Congressional, and Executive Branch leaders involved in Asia Pacific related activities. In September 1996, the Commission traveled to Japan, China, Hong Kong, Thailand, Indonesia, and Taiwan, where it held discussions with officials in each of these countries, as well as with U.S. embassy representatives and executives of both U.S. and Asia Pacific companies operating within the region.[7] The Commission then worked to formulate the findings and recommendations which are presented below.

2 Observations and Findings

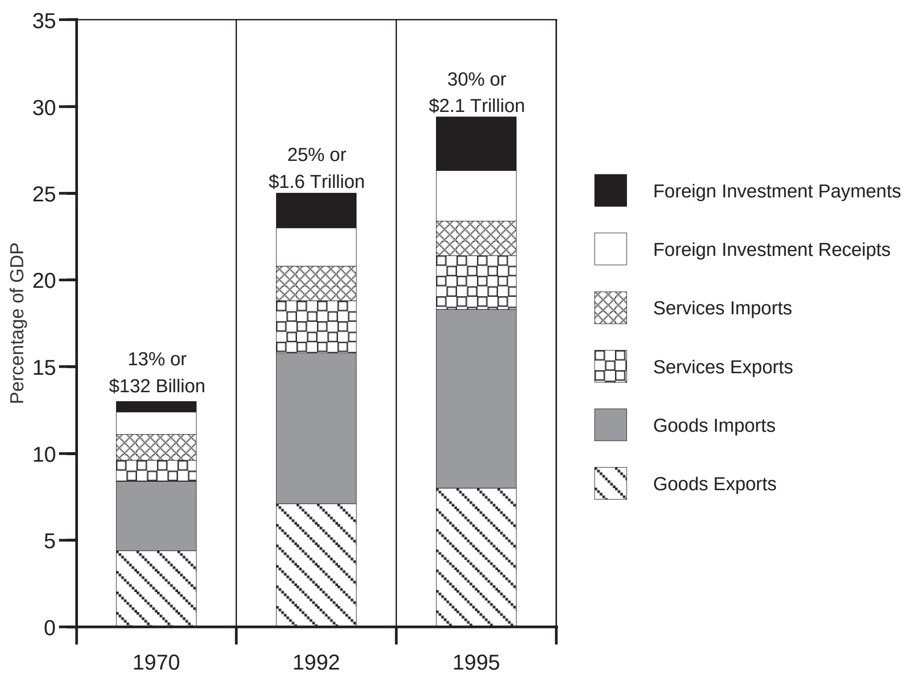
After 10 months of hearings and deliberations, the Commission made the following observations and findings with respect to U.S. trade and investment in Asia Pacific.

Trade and foreign investment are of unprecedented importance to the U.S. economy, improving living standards and expanding employment opportunities for high wage jobs.

FIGURE 5

Growing Importance of Trade to the U.S. Economy

Total Exports + Total Imports as a Percent of U.S. GDP Value



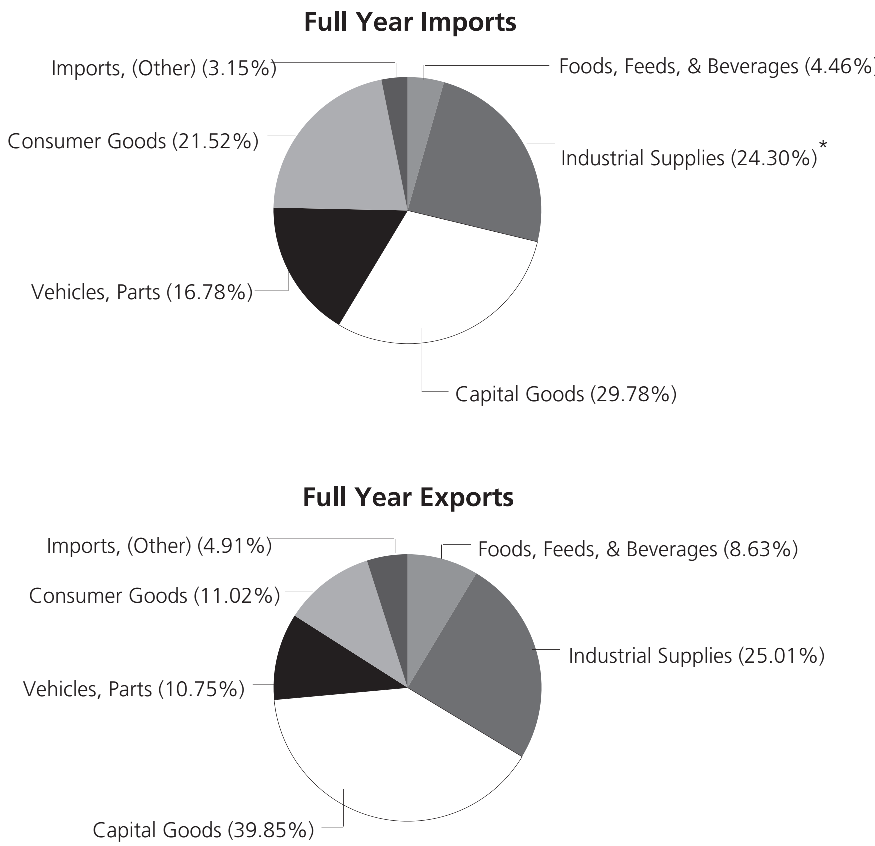
Source: U.S. Department of Commerce, Bureau of Economic Analysis

U.S. prosperity is closely linked with America's success in international commerce. More than ever, the welfare of the American worker—how much he or she is paid, the stability of his or her job—is dependent on the competitiveness of his or her employer in the global economy.

Over the last quarter century, international commerce has made a growing contribution to economic life in America. In 1995, exports and imports of goods and services and the return on U.S. investment abroad equaled almost 30 percent of U.S. GDP, up from 13 percent in 1970. That proportion is expected to continue to grow. Today, the United States is the world's largest exporter and importer.[8] It ranks number one as both the largest holder and recipient of foreign investment.[9] Long considered by Europeans and Japanese as an inward-looking, domestic-oriented economy, America is now as internationalized as Europe as a whole and more internationalized than Japan.

FIGURE 6

U.S. Merchandise Trade With World
By Sector, 1995



***Industrial supplies include crude petroleum**

Source: Official Statistics of the U.S. Department of Commerce

By the end of 1996, U.S. exports of goods and services supported an estimated 11.3 million jobs, approximately 9 percent of the total civilian American workforce. Two-thirds of these jobs, or 7.6 million, are attributable to merchandise exports.[10] But exports do not simply create jobs, they create better, more secure jobs. American workers in export manufacturing firms earn between 11 and 18 percent more than the average manufacturing wage in the United States.[11] Workers producing for the global market receive higher benefits and their jobs are more stable.[12]

The buying power of those wages has been enhanced by rising imports. Products from abroad provide American consumers with a range of choices at competitive prices, so that at any given wage American workers can buy more of what they want.

Moreover, the majority of U.S. merchandise imports are not consumer goods, but capital equipment and industrial supplies primarily used in the production of final goods in the United States. These low cost, high quality imports have improved the global competitiveness of U.S.

industry. Growing U.S. foreign direct investment overseas also contributes to American prosperity. Trade often follows foreign direct investment as the creation of U.S. subsidiaries abroad acts as a magnet for U.S. exports. American firms that invest overseas have demonstrated significant increases in their shipments abroad. To compete effectively in markets for sophisticated products, it is often necessary for a company to have a presence in a foreign market to provide adequate marketing, sales, and after purchase service. A market presence is also needed to follow market trends, respond to customer needs, and acquire innovative new technologies.

Despite the benefits of international trade and foreign investment, the globalization of the U.S. economy has generated new challenges and problems for American society. International competition has sometimes led to job dislocation and contributed to the widening gap between rich and poor. Major American industries — textiles and apparel, steel, and autos — have been forced to shrink their work force. The communities where these industries were the principal employers have suffered wrenching transformations. These problems have led to calls for protectionism and American disengagement from the global economy. Such demands will only grow if the benefits of trade are not enjoyed by large segments of society that are directly and indirectly affected by global commerce.

Asia Pacific is of growing global economic significance.

Asia Pacific is now the focal point of global economic growth. The region has averaged 6.6 percent growth annually over the last decade – nearly 9 percent excluding Japan.[13] The economies of Asia Pacific, which accounted for one-seventh of the global economy in 1970, will account for nearly a third of the global economy by the year 2000.[14] As a result, average per capita income in the region has

Table 1
GDP Per Capita, 1995 - 2000
thousands of $-Purchasing Power Parity

	1995	2000f	avg. annual % change
World	**5,886**	**6,347**	**1.6%**
United States	27,559	29,409	1.3%
European Union	18,061	19,935	2.1%
Canada	24,351	26,443	1.7%
Mexico	7,670	8,800	2.9%
Japan	21,398	24,316	2.7%
Taiwan	13,615	16,033	3.6%
China (PRC)	2,923	4,191	8.7%
Hong Kong	24,581	28,661	3.3%
Malaysia	9,700	12,162	5.1%
Philippines	2,469	2,875	3.3%
Sinapore	22,000	25,386	3.1%
South Korea	13,133	17,108	6.1%
Thailand	7,165	9,330	6.0%
Indonesia	3,494	4,282	4.5%

Note: GDP estimates are based on purchasing power parity computations rather than on conversions at currency exchange rates made by Summers and Heston in PENN World Table 5.6 (For discussion of their basic methodology see "Quarterly Journal of Economics," May 1991); GDP estimates for OECD and EU for 1970-90 include former West Germany and for 1991–1995 include unified Germany.

Source: Base – U.S. Bureau of the Census, International Data Base; CIA Handbook of International Statistics, 1996

Source: Forecast – DRI McGraw Hill

grown six-fold and will be $12,000 by the end of decade, more than the current average income in Greece or Portugal.

Trade has fueled this economic miracle. From 1985 to 1995, merchandise exports from Asia Pacific grew 250 percent. In 1995, trade accounted for about 29 percent of the Asia Pacific economy, up from 15 percent in 1986.[15]

Asia Pacific producers have vaulted into the forefront of international commerce in key technologies. While two decades ago no South Korean companies made semiconductors, South Korea now produces 14.4 percent of the world's basic computer chips. Japan only began competitively exporting cars in the 1960s but now accounts for 25 percent of all world auto exports.[16] Moreover, Taiwan, which did not have a computer industry two decades ago, is now a leader in manufacturing notebook computers and mobile computing technology, and produces a growing share of the world's computer components.

Economic relations with Asia Pacific are of increasing significance to the United States and will remain so well into the 21st century.

In 1980, Asia Pacific bought $45 billion worth of U.S. goods and services. By 1995, the region purchased $175 billion of U.S. exports. A decade and a half ago, Asia Pacific was second to Europe as a customer for U.S. exports, buying 20 percent of what America sold abroad. Today, the region is by far America's best customer, purchasing 30 percent of U.S. exports.[17] U.S. sales to individual Asia Pacific economies have soared in recent years. Exports to Japan have tripled in 15 years and exports to South Korea, Taiwan, Hong Kong, and Singapore have increased five fold at a time when total U.S. exports have only doubled. [18] (See Figure 7 on page 15)

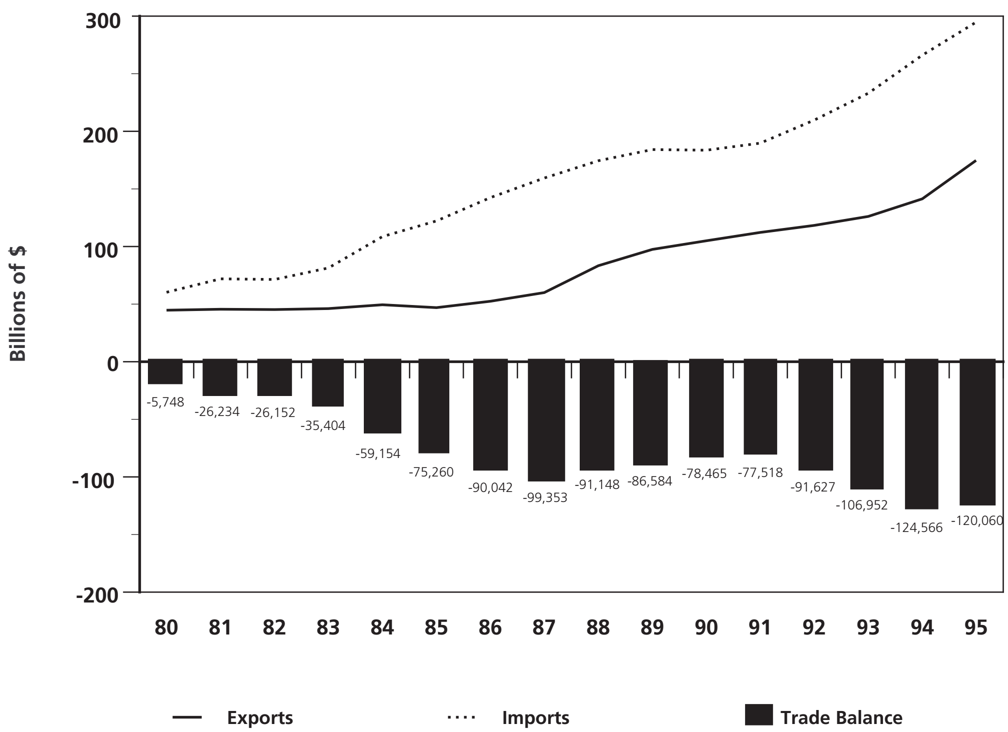
Key American industries have benefited from this export boom. In 1995, the United States exported $57.5 billion in advanced technology products to Asia Pacific, 42 percent of total such U.S. exports to the world.[19] Between 1990 and 1995, industries that have experienced strong growth in exports include electrical machinery (146 percent), paper (98 percent), and prepared foods (100 percent).

Meanwhile, between 1991 and 1995, total U.S. foreign direct investment in Asia Pacific grew by more than $40 billion, rising from $52 billion to $95 billion.[20] American firms gained a foothold in important national economies. Investment in China more than tripled in the first half of the 1990s, reaching $34 billion in 1994.[21] China accounted for three quarters of the increase in U.S. investment in Asia Pacific between 1991 and 1994.[22]

There are significant, tangible benefits for many American workers from U.S. trade and investment ties to Asia Pacific. As of 1996, an estimated 2.3 million jobs were supported by U.S. exports to the countries of Asia Pacific. Of the 2.3 million, it is estimated that over 850,000 American workers owed their jobs to U.S. exports to Japan, over 210,000 to Taiwan, over 170,000 to South Korea, and over 160,000 to both Hong Kong and China.[23]

FIGURE 7

U.S. Merchandise Trade With Asia Pacific



Source: U.S. Department of Commerce

The potential of the Asia Pacific market for U.S. exports and investment is great. In 1997, outside of Japan, the Asia Pacific economies are expected to grow at three times the rate of the American economy. For some time, these markets are likely to continue to expand much faster than the more mature U.S. economy or the markets of Europe and Latin America. This rapid growth may create a flourishing demand for U.S. goods and services. By the year 2000, Asia Pacific nations are expected to purchase a fifth of all basic chemicals produced in the United States, one-twelfth of the radio, television and telecommunications equipment made in America, and one out of every twelve aircraft manufactured in the United States.[24]

Asia Pacific will be a particularly attractive market for U.S. exports of and investment in high technology. In 1996, Asia Pacific consumed $74 billion worth of semiconductor chips. By the year 2000, Asia Pacific demand for computer chips is expected to grow to $158 billion. In China alone, consumption of semiconductor chips will nearly quadruple by the end of the century, exceeding $20 billion. Comparable increases in demand are expected for semiconductor production equipment.

The infrastructure needs of these rapidly growing Asia Pacific economies also present a myriad of commercial opportunities for the United States. In the next decade, Asia Pacific, excluding

Japan, will spend over $1.5 trillion on new infrastructure development — an estimated $493 billion to build new power generating and transmission facilities; $256 billion for telecommunications projects; $607 billion for new transportation links; and $153 billion for water and sanitation facilities. If estimates for modifying and expanding existing infrastructure are added, the total market could exceed $3 trillion.[25] The Boeing Company anticipates that in the next 20 years commercial aircraft purchases throughout Asia Pacific will total $290 billion.[26] In practical terms, these anticipated expenditures translate into potential demand for U.S. road building equipment, airport radar and service contracts, port dredging and construction services, telecommunications switching devices and fiber optic cables.

U.S. exports to the Asia Pacific region face tariff and non-tariff barriers that restrict market access.

Despite the growth in U.S. trade with Asia Pacific, the full economic benefit to the U.S. economy of trade with the region has not been realized due to the persistence of tariff and non-tariff barriers. The need to identify these barriers and make recommendations for their elimination was a major reason for the formation of this Commission.

In the wake of commitments to reduce and bind tariffs made in the Uruguay Round of multilateral trade negotiations, the tariffs on manufactured products applied by countries in Asia Pacific, such as Hong Kong, Japan, Brunei, Malaysia, and Singapore, are relatively low, between 0 and 9 percent. Nevertheless, tariff peaks still exist. Even in Singapore, which has few tariffs, a U.S. exporter attempting to sell whiskey faces an applied tariff equivalent to 120 percent.[29] Post-Uruguay Round tariffs for other economies in Asia Pacific, such as Indonesia, the Philippines, South Korea, and Thailand, have average tariff rates between 15 and 38 percent. Individual tariffs in these countries can be extremely high — the Thai tariff on auto parts is 60 percent.[30] The amount of commerce inhibited by such tariffs is difficult to accurately quantify; however, the U.S. information technology industry estimates that the removal of all tariffs on information technology products, agreed to at the Singapore Trade Ministerial meeting in December 1996, will save the industry $1 billion a year, much of that in Asia Pacific.[31]

Non-tariff trade barriers, such as licensing production to only a favored producer, some government subsidies, and technical standards that discriminate against foreigners, continue in many countries. In South Korea, for example, a combination of government policies and tolerated private practices have resulted in foreign auto makers having less than 1 percent of the South Korean auto market. China effectively excludes some imports by requiring testing and certification of foreign products to comply with vague or unpublished standards.

Piracy of intellectual property — technology, patents, trademarks and copyrights — also inhibits U.S. commerce with Asia Pacific. Intellectual property and technology are the essential added value in many U.S. exports, such as films, sound recordings, computers, and software, making many U.S. goods and services competitive in the Asia Pacific market. That advantage is undermined when films such as Independence Day are illegally copied, Microsoft Windows 95 software is clandestinely reproduced, and knock-offs are made of Nike's Air Jordan sneakers. The

International Intellectual Property Alliance estimated that U.S. copyright industries alone lost nearly $5 billion to piracy in the Asia Pacific region in 1996.

Currency exchange rates measurably affect U.S. trade and investment in Asia Pacific. For example, between May 1995 and February 1997, the yen's value to the dollar dropped 49 percent. As a result, the cost of U.S.-made goods to Japan increased commensurately. Some Asia Pacific economies, at times, have promoted exports and reduced imports through manipulation of exchange rates by maintaining a weaker currency against the dollar.

The persistence of private and public anti-competitive practices and poor enforcement of antitrust laws where they exist in the Asia Pacific region are major impediments to U.S. exports and foreign direct investment.

Some of the most egregious problems facing U.S. export expansion and foreign direct investment are private agreements and business practices that restrain commerce, sometimes with the tacit or explicit blessing of government. Often, these practices are outside the parameters of existing international trade rules.

Many Asia Pacific governments actively intervene in their domestic markets, promoting strategic industries with high tariffs, investment restrictions, standards and licensing restraints, subsidies, and domestic content requirements. In the post-war period, the Japanese Ministry of International Trade and Industry (MITI) frequently chose "winners and losers" among domestic industries. Japanese auto manufacturers, for example, benefitted for many years from a protected domestic market and government export support. Even today, Japanese governmental policies actively help the domestically-owned telecommunications satellite industry and computer hardware and software makers. While critics claim that targeting efforts have failed in the past, other Asia Pacific governments have not been deterred from emulating Japan's practices. Indonesia and Malaysia embarked on national car programs designed to bolster their domestic auto industries by severely limiting foreign competition. Similarly, China has designated "pillar industries", such as electronics, autos, and aviation.

Some Asia Pacific governments guide, intimidate, and manipulate business decisions to bolster exports and limit foreign direct investment. Bureaucrats wield discretionary power to protect national industries and companies under the guise of maintaining national order. For example, for the sake of market stability, Japan's Finance Ministry has repeatedly orchestrated mergers or propped up bank share prices to keep insolvent Japanese banks from closing their doors. Such short term palliatives have staved off a fundamental restructuring of the Japanese financial market that could have opened it up to greater competition.

Business cartels, price-fixing, bid-rigging, and market allocation agreements between competitors that effectively freeze foreign firms out of the market are also tolerated. Japanese *keiretsu* and South Korean *chaebol* business groupings maintain preferential relationships between affiliated companies. For example, the Fuyo group of Japan is one of several huge networks of firms, with interests in banking (Fuji Bank), autos (Nissan), and consumer electronics (Hitachi), tied together by cross-share

IMPACT OF THE INFORMATION AGE ON U.S.-ASIA PACIFIC TRADE AND INVESTMENT RELATIONS

The emergence of the Information Age presents special challenges for Asia Pacific trade and investment. Over the history of international trade, the goals of commerce have evolved from territory to natural resources to manpower to production to markets. Now, the key asset of commerce is ideas. These ideas are embedded in such exports as know-how in production processes, patented technology in high-tech goods, copyrighted works in software and media, and creative products in financial services. The question has changed from who owns and controls the goods to who owns and controls the ideas.

So long as goods were the object of trade policy, attention was placed on who made the goods and whether those goods had fair access to foreign markets. Foreign trade policies focused on formal barriers such as tariffs and quotas at a country's borders. As the means of production and distribution extended around the globe, issues like national treatment and the absence of collusive discrimination became important.

Idea-intensive industries thrive without regard to language, geography, or natural resources. Ideas can be born anywhere and can move instantaneously without regard for national boundaries. For national economic and trade strategies, this means that the United States must adopt policies to foster the birth of ideas by Americans, to have those ideas incorporated into exportable forms in the United States, and to protect those assets from being unfairly devalued or obstructed.

Information Age Has Economic Implications

Knowledge-based industries are contributing to increased efficiency and added-value in the world economy. Innovation and technology contribute a greater portion of the value-added in ordinary products and services affecting business and commerce in ever more fields. As one example, the electronics industry already represents 11 percent of U.S. GDP, and provides more than four million high-wage American jobs — more than any other manufacturing sector. The jobs pay roughly 70 percent more than the national average wage and they are also highly leveraged jobs; for every job in electronics, between two and four jobs are created in related industries. And the impact of the Information Age affects far more than traditional electronics and high-technology industries, adding an innovative edge and a differentiating factor to American products and services in the global marketplace.

Nowhere is the rapid development of the Information Age more clear than in the explosive growth of the Internet — the global infrastructure of computer networks that allows for the transmission of electronic information. This growth has put into more hands the power of information to change communication, society, and economic relationships.

The Internet has the potential to be a significant factor in the world's economic development. As an economic and commercial vehicle, the Internet offers certain advantages for trade and market access in Asia Pacific, particularly within the area of services. The Internet provides a new, direct distribution channel that places foreign and domestic suppliers side-by-side on a reasonably level playing field. At the same time, the Internet raises new challenges for protecting goods such as software from piracy and for enforcing intellectual property laws. While it is early to suggest precisely how the Internet will develop into a commercial vehicle for trade, it has the potential to make a powerful contribution if it remains a market-driven medium free from undue government control, and excessive regulation and taxation.

Information Age Technology is a Priority in Asia Pacific

The fast-growing economies of Asia Pacific have recognized well and early the importance of high-technology for industrial and economic growth. They have made the development of Information Age industries and infrastructure a priority within their growth strategies. The acquisition of Information Age technology is a highly attractive target for developing economies: with little need for particular natural resources and relatively low training requirements, there are few barriers to entry for many sectors of Information Age production. There are opportunities to leapfrog the development cycle and invest in advanced infrastructure. Several Asia Pacific countries successfully have targeted semiconductors and other Information Age technologies and rapidly brought on-line production facilities geared for exports. In line with their high economic growth rates, the countries of Asia Pacific are pouring massive capital investment into urban and other development, with whole cities and industrial complexes rising from the countryside. Unencumbered by an existing, outmoded technology infrastructure as found in the West, these developments are being built from the ground up with some of the most sophisticated communications and other information systems. Advances in technology can be leveraged to supply advantages and efficiencies across the spectrum of commercial activity, offering a broad return on investment compared to other industries.

As an example, Japan's electronics industry has matured and captured a large share of the world market for different electronics products over the past decades. In new technology development, Japan is a world leader. This is because Japan is out in front in funding new technology development, in preparing its workforce for business in these and other new technologies and in developing its capability to compete across the globe. Other countries in Asia Pacific — notably South Korea, greater China, and the countries of Southeast Asia — have included high-technology and electronics products as part of their economic strategies and are forecast to experience the fastest growth rates in many Information Age industries in the years ahead.

Technology Leadership is Key to U.S. Success in Asia Pacific

Leadership in technology and knowledge-based industries will be key to America's success in competing for the markets of the Asia Pacific region. The United States will never be able to compete in the world on the basis of low labor costs. In a global marketplace with free flow of goods and capital, economies of scale are available to all producers and the cost of capital should be roughly equal in all major markets. Yet, the value contributed by innovation is not equal.

The accelerating pace of innovation abbreviates product life cycles, reducing advanced products to the level of commodities often within a few years or even months. Remaining competitive with the most advanced products requires American producers to invest in the Research and Development

(R&D) that leads to new technology that can be translated into new generations of products that remain ahead of the value curve. As technology advances, the value in new generations of products and services is migrating to their innovative components. In a personal computer, almost all of the product value is contributed by the microprocessor, software, and display. Even in everyday products, the content and value contributed by semiconductors and other Information Age technology is increasing.

Thus, the only way for America to maintain and expand its presence in Asia Pacific markets while continuing to pay high and rising wages is by dint of advanced skills and knowledge, leveraged into R&D, to produce value-added goods and services and sell them to the world's markets. This means not only that the United States must continue to produce products and services in which it is technologically dominant (such as microprocessors, airlines, and global fund management) but also must apply Information Age and other technologies to industries such as agriculture, steel, autos, and textiles, and by infusion of technology, maintain or increase competitiveness even at high wage levels. As we approach the next century, the United States must position itself to remain ahead of the growth curve in the adaptation of technology in order to maintain its comparative advantage and optimize its opportunities in Asia Pacific.

The pace of technological change combined with the explosive growth of Asia Pacific markets makes speed imperative. Maintaining the base of revenue from which research and development investment is drawn requires companies to achieve significant market share in high-value industries. This often cannot be achieved without penetration into Asia Pacific markets. Leadership can only be established by getting to market first and capturing enough share to fund the necessary R&D to produce the next generation of products — and that raises even higher the priority of opening markets in Asia Pacific. Thus, policies and programs aimed broadly at promoting and infusing technology and opening markets will be essential to America's future in Asia Pacific markets.

Leadership Demands Ongoing Investment in R&D

Technology development is a key to U.S. competitiveness, fueling gains in innovation and productivity. More than ever, investment in R&D drives the process of innovation that underpins much of the United States' economic well being and trade advantage. To maintain this advantage requires an unwavering commitment to education and training, including math, science, languages, and culture, to develop the skills and abilities necessary to compete successfully in the Information Age. This commitment must acknowledge that the shift to a knowledge-based economy requires life-long learning, with valuable development and re-training opportunities available for workers.

While many Pacific Rim partners depend heavily on public financing of R&D, in the United States most investment is private. Public policy, however, can be used to send a strong signal to encourage and incentivize private investment in R&D. The products of such research are important assets and require stringent intellectual property protection, including the enforcement of patents, trademarks, and copyrights.

In addition to domestic economic benefits, American technology is also a significant export. The United States remains the world's leading exporter of technology products, which account for a quarter of all U.S. goods and services exports. The United States exports four times the amount it imports in technology trade and is the only major country to have a large positive balance. As technology advances, government leaders need to fully understand the trade-off between export controls and export opportunities.

Changing the Trade and Investment Debate

The Information Age also holds tremendous potential for spreading the U.S. message of consumer sovereignty and open markets. With a free flow of information, U.S. negotiators can develop allies and make common cause with reformers in a number of Asia Pacific's relatively closed markets. Greatly expanded information exchange will assist and support "sunshine" measures and magnify their impact on trade and investment. Information Age technology can foster greater awareness of human rights conditions, labor conditions, child labor practices, and anti-competitive practices, as well as positive feelings engendered by exposure to different cultures. Using the global information infrastructure, U.S. officials can get their story directly to the public and thereby help build local support for reasonable market opening requests.

As the world's industrial and developing economies gear up to compete in the Information Age, maintaining U.S. competitiveness and the benefits of trade for all Americans will depend more and more on America's ability to capitalize on its innovative capabilities. The new challenges of commerce in the era of information are clear. The United States must adopt policies and practices based on the following imperatives:

1. Maintaining America's competitive advantage in the Information Age requires a strong commitment to research and development. The United States, through tax, accounting and regulatory policy, must encourage basic research and private R&D investment.

2. Because the speed of introduction of new products is essential in an environment where product life-cycles are measured in months, the United States must insist on clear access in all key economies so that new products can get to market quickly.

3. The Information Technology Agreement (ITA), signed in December 1996, is a positive step toward the elimination of tariffs on information technology products. The United States should encourage additional signatories to the ITA, particularly China and other Asia Pacific countries.

4. The Internet is a global communications medium that requires national and international policies regarding tariffs, electronics payment systems, privacy, security, encryption, intellectual property rights, and many other issues. The United States must discourage government intervention and encourage voluntary international standards that are as broad as possible and do not act as barriers to free trade.

5. As vigorously as the United States would protect its most precious natural resources, America must have strong, reliable intellectual property protection and make this issue a high priority in all international trade fora.

holding arrangements. The economic reach of these business groupings is all-encompassing. The combined sales of the four largest South Korean *chaebol* — Hyundai, Samsung, LG, and Daewoo — account for 80 percent of the South Korean economy. Ever so slowly, the *keiretsu* and *chaebol* are beginning to break down at home. However, they are rapidly being replicated throughout Southeast Asia in the wake of Japanese and South Korean investment in the region. Toyota, for example, now sources much of the parts for the cars it builds in Thailand, Indonesia, and the Philippines from several of its *keiretsu* affiliates also with plants in Southeast Asia. As such exclusionary business relationships proliferate throughout Asia Pacific, it could become increasingly difficult for U.S. suppliers to produce and sell in these markets.

Enforcement of commercial law receives relatively low priority throughout much of Asia Pacific, where legal and regulatory structures are underdeveloped. There are often no standardized procedures, no transparency of decision making, no due process, severely limited rights of private action for companies operating in these markets, and judges and lawyers lack adequate resources and training. Bribery, corruption, and lack of transparency in government procurement are often identified as among the most difficult barriers confronting U.S. business in many Asia Pacific markets. These impediments distort trade and investment and waste valuable resources. All too often, what makes the difference in major procurement contracts in the region, whether for turbine power generators or telecom network equipment, is not the quality or price of a product or service, but that something "extra" was involved in the contract. Although difficult to measure, it is estimated that between mid-1994 and mid-1996, U.S. firms lost 36 contracts valued at $11 billion to foreign competitors around the world as a result of bribery or corruption abroad. These figures present only those cases which have come to the attention of U.S. authorities. The magnitude of this problem is likely to be much larger.[34] In Asia Pacific, the United States competes with European and Asia Pacific firms that engage in bribery and corruption in procurement of large government contracts. However, U.S. companies and citizens are subject to stringent standards and penalties under the Foreign Corrupt Practices Act of 1977.

Except for Japan, South Korea, Taiwan, and Thailand, antitrust laws do not exist in the region. Even where these laws exist, they are often inadequate. Efforts to improve enforcement, such as the Structural Impediments Initiative with Japan and the Dialogue for Economic Cooperation with South Korea, have met with some success. Nevertheless, antitrust regimes in the Asia Pacific region still remain insufficient; the applicable scope is limited; sanctions are not severe enough to act as a deterrent; exclusionary practices are not always prosecuted; and the right of private action is circumscribed.

Investment barriers limit the expansion of U.S. exports and the flow of U.S. capital into Asia Pacific markets.

Over the last five years, in recognition that investment restrictions harm their own economic prospects, a number of Asia Pacific countries — Singapore, Thailand, and

Taiwan — have undertaken unilateral investment deregulation, streamlined administrative procedures for the approval of foreign investment and lifted some prohibitions on foreign investment in certain industrial sectors.

From 1990 to 1994, Asia Pacific economies received $37.3 billion in foreign direct investment, 19.2 percent of total global foreign direct investment during that period. Between 1995 and 2004, the region is likely to receive another $1.2 to $1.5 trillion dollars in foreign direct investment. China, South Korea, Thailand, and Indonesia are expected to command about 90 percent of that total.

Despite this need for foreign capital, Japan, China, Malaysia, Indonesia, South Korea, and the Philippines have longstanding traditions of limiting foreign investment in their economies. While investments do continue to flow into the region despite these barriers, the interests of these investors cannot be fully capitalized upon due to limits placed on their freedom of action from these barriers. At times, governments will require forced transfer of technology. In Japan, foreigners can only own 20 percent of telecommunications firms. In Indonesia, the President must personally approve every individual foreign investment project. Malaysia will only allow foreigners to own 100 percent of the equity in a company if they agree to export at least 80 percent of what they produce. China and South Korea make it difficult for foreign investors to repatriate their profits.

Such investment conditions distort the marketplace, forcing American investors to make decisions that are not necessarily in the interest of the American economy. In this day and age, American companies need to invest abroad, to be in touch with rapidly changing consumer demand, to have access to the latest technological innovations, to size up the competition face-to-face, to save on transportation costs and to take advantage of differences in production costs. Most importantly, the United States needs American investment abroad to spur exports.

Contrary to popular belief, U.S. foreign direct investment actually fuels exports and therefore does not necessarily lead to job dislocation in the U.S. economy. Those who believe that U.S. FDI costs the United States jobs generally ignore the creation of jobs through exports and the reality of the global market place. If U.S. companies did not invest, other parties, most likely from Europe or Asia Pacific, would make the investment, making them more efficient and competitive against the United States in the global economy. Almost a quarter of all U.S. merchandise exports are from U.S. multinational corporations to their overseas affiliates. For example, in 1995, Chrysler Corporation built a plant in Thailand to assemble Jeeps. Chrysler sources some Jeep parts from Thai producers, but a majority of the vehicle, especially the high-end components, are manufactured in the United States and shipped to Thailand where the components are then fully assembled into a Jeep.

Since exports follow investment, it is not surprising that the fastest growing importers of U.S. goods and services are also the fastest growing recipients of U.S. foreign direct investment. Between 1991 and 1995, U.S. foreign direct investment in Asia Pacific grew over 80 percent. At the same time, merchandise exports to the region grew by 56 percent.

For over a decade, the United States has had an active program to advance investment disciplines and provide fair and equitable treatment for U.S. investors abroad, but these efforts have largely been stymied in the Asia Pacific region. The Uruguay Round Agreement on Trade Related Investment Measures (TRIMs) prohibits certain investment performance requirements, but is limited in scope. Efforts by APEC to develop an investment regime resulted in weak principles that are heavily qualified and only voluntary in character. Moreover, in the last decade the United States has negotiated over 37 bilateral investment treaties that provide safeguards against expropriation, the better of national or MFN treatment on establishment, and the freedom to hire top managerial personnel and to move them about. No Asia Pacific country has agreed to these high standards in a bilateral investment treaty with the United States. Negotiations for a treaty are underway with Hong Kong and are about to begin with Taiwan.

Asia Pacific trade and investment barriers exact a high cost on U.S. economic growth and living standards and limit the creation of high wage jobs.

The inability of the United States to maximize its economic relations with Asia Pacific impacts U.S. economic welfare and competitiveness. It is difficult to estimate precisely the magnitude of foregone commercial opportunities. Too many factors come into play. But evidence of the cost of regional trade barriers gives some sense of the price America pays for trade and investment barriers in Asia Pacific. For example, in Japan, tariff and non-tariff barriers cost Japanese consumers and industrial purchasers up to an estimated $110 billion annually. Most of these barriers protect the agricultural, computer, telecommunications, and chemical sectors of the Japanese economy, segments of the economy in which U.S. firms have a significant competitive advantage.

U.S. efforts to reduce trade and investment barriers in Asia Pacific will take place in a new trade policy environment.

Over the course of the last fifteen years, the United States has repeatedly attempted to lower trade and investment barriers in Asia Pacific one nation at a time. Through bilateral negotiations, often conducted under the threat of unilateral U.S. trade sanctions, U.S. administrations have succeeded in lowering tariffs and improving the investment climate in Japan, Taiwan, and South Korea and the protection of intellectual property in much of Asia Pacific. These successes demonstrate the potential for expanding market access in the region when the U.S. government is willing to take a firm stand to open markets.

The WTO is a new, potentially effective venue for further dismantling trade and investment barriers in the region. Prior to 1994, the dispute settlement mechanism within the General Agreement on Tariffs and Trade (GATT) was ineffective. Moreover, many issues, such as protection of intellectual property and trade in services, were not subject to GATT discipline. Now, an efficient dispute settlement mechanism is in place, applying to all member countries. No longer can an offending party block resolution of a problem. A longstanding dispute with Japan over discriminatory taxation of distilled spirits was finally resolved by a recent WTO decision and appeals panel; Japan must now either reform its tax system or pay compensation to the United States. Bilateral trade tools — such as Section 301, as amended, and Special 301 and Super 301 — provide the leverage for the United States to make that stand. Section 301 is an especially valuable tool for monitoring and enforcing existing trade agreements. In fact, the only trade tool available to the U.S. for ensuring that trading partners abide by their commitments is the threat of 301 sanctions and retaliation. Section 301 also continues to be effective in those areas where there is less than adequate multilateral discipline, including investment, financial services, market access, and competition policy. It is important to note that there is no inherent incompatibility between international trade rules and U.S. trade law.

Table 2
Foreign Direct Investment Stock in Asia Pacific*

	1980 (%)	1993 (%)
Developed	58%	48%
U.S.	16%	14%
E.U.	16%	13%
Japan	25%	21%
Intra-Asia Pacific**	26%	36%
NIE*	23%	34%
ASEAN	3%	2%
China	0%	0%
Other	17%	16%

*Data relate to FDI stocks of cumulative FDI flows

**not including Japan

Note: As of October 1996, 1993 data is best available data

NIE=Hong Kong, South Korea, Singapore and Taiwan

ASEAN (4)=Indonesia, Malaysia, Philippines and Thailand

Data for China, Indonesia, Malaysia, South Korea, Taiwan and Thailand are on an approval basis

Hong Kong: Only manufacturing Data are as at end-1984 and end-1993

Malaysia: Data under 1980 are for 1981

Singapore: Data under 1993 are for 1991

China: Data under 1980 are for 1984

Source: UNCTAD-DTCI, based in UNCTC, 1992b, and official national sources

The Asia Pacific Economic Cooperation forum has agreed to remove all trade and investment barriers within the region by 2010 for industrial nations and 2020 for developing countries. However, liberalization efforts are in the early stages. APEC's future credibility will depend upon its ability to deliver steady progress toward market liberalization.

Competition in the Asia Pacific market is growing.

Competition to sell and invest in Asia Pacific markets has intensified. The principal competition is coming from Asia Pacific nations themselves as they engage in more commerce with each other. In 1980, a third of Asia Pacific trade was within the region itself. In 1995, that proportion had grown to one half. From 1985 to 1995, while Japan's trade with the United States was doubling, Japan's trade with ASEAN, Hong Kong, Singapore, and South Korea quadrupled. Intra-Asian Pacific investment accounted for a quarter of the total foreign direct investment in Asia Pacific in 1980 and amounted to a third of the total by 1993.

The United States is still the major export market for many Asia Pacific countries. China sells 17 percent of its exports to the United States and 20 percent of ASEAN exports are bought by the United States. No other single economy is currently big enough, rich enough, or open enough to replace the United States as a market. This provides the United States with leverage in trade negotiations with Asia Pacific governments. However, as commerce grows within the region, the dependence of Asia Pacific on trade with the United States diminishes. Japan now exports more to the rest of Asia Pacific than it does to the United States. While ASEAN's trade with the United States is expected to grow 50 percent by the year 2000, ASEAN's trade with Japan, already larger than that with the United States, is forecast to grow 59 percent. (See Figure 8 on page 27)

Current U.S. efforts to increase trade and investment in Asia Pacific are inadequate.

The economic rise of Asia Pacific has yet to capture the full attention of U.S. business and political leaders. As a result, the United States is not maximizing its economic opportunities in the region.

Until recently, U.S. business paid less attention to Asia Pacific than have competitors from other countries. In some cases, U.S. companies pulled out of markets at the first sign of trouble, abandoning the field to their Japanese and European competitors. In the Philippines, for example, the U.S. auto industry held a majority share of the market in the early 1980s, but following political instability there, many U.S. companies left the Philippines and Japanese automakers gained 90 percent of the market. In the last few years, however, American firms have deepened their commitment to the region. Several companies have assigned senior corporate executives to the region. For example, General Electric recently has set a goal to have one quarter of its senior executives stationed in Asia Pacific. U.S. corporate investment in the region increased over 80 percent from 1991 to 1995. At the same time, European and Japanese competitors appear aggressively committed to the region.

In Asia Pacific cultures, even more than elsewhere, personal contact at a high level and development of human relationships over long periods of time are critical to the success of any endeavor. However, the sheer physical distance between Washington and Asia Pacific capitals, combined with competing U.S. policy priorities and cultural differences, often has resulted in episodic and insufficient attention to the region by high level government officials. Although the U.S. has recently sent more official trade missions to the region and is shifting dwindling resources to assist American businesses in Asia Pacific, foreign competitors also have intensified their efforts.

The U.S. government has not provided adequate resources to bolster U.S. economic engagement with Asia Pacific. Overall government spending on trade promotion has dropped from $691 million in 1995 to $323 million in 1997.[43] In comparison, the German government, in conjunction with German banks and industry, has established a "German Center" in Singapore to assist business and especially small and medium sized enterprises (SME's) to penetrate the Asia

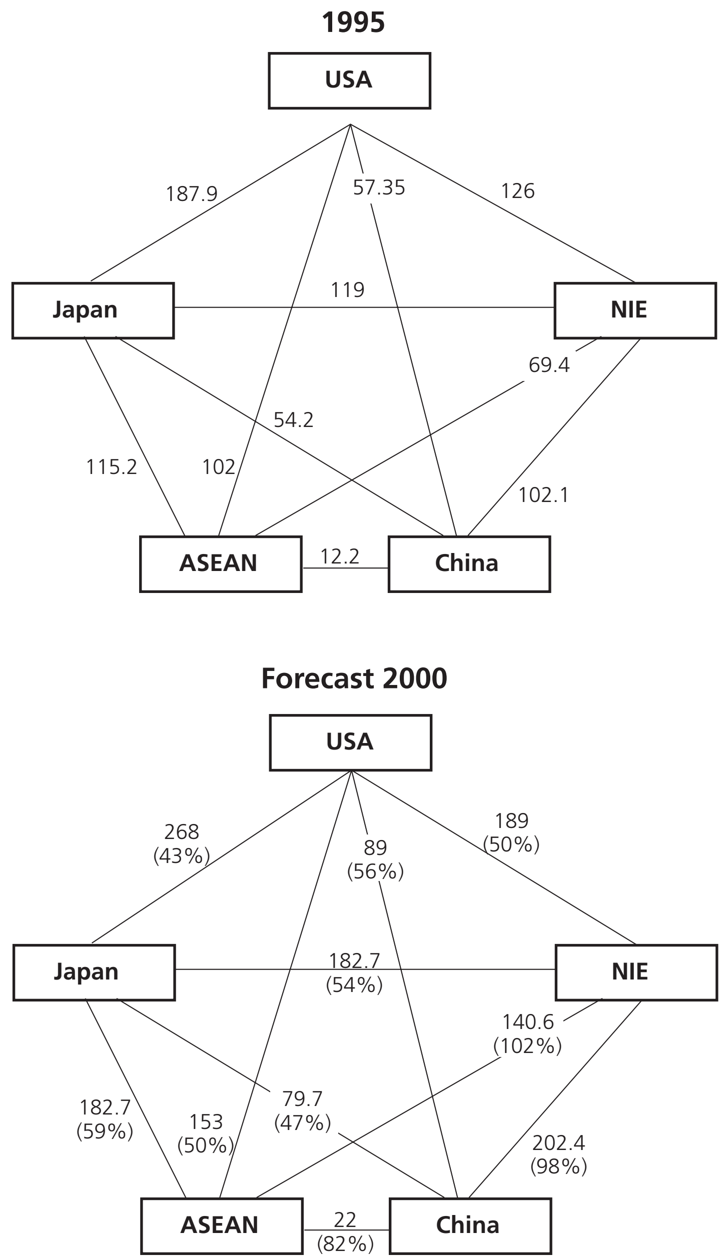
Notes:

1. **Billions of U.S. dollars**
   Trade values = exports + imports
2. **Trade values between U.S. and other partners based on U.S. statistics**
3. **Trade values between Japan, China, ASEAN (5), and NIEs based on Japan statistics**
4. **Trade values between NIEs and China/ASEAN based on NIEs statistics**
5. **Trade values between ASEAN and China based on ASEAN statistics**
6. **ASEAN comprised of Singapore, Malaysia, Indonesia, the Philippines, and Thailand**
7. **NIE (Newly Industrialized Economies) comprised of Hong Kong, Taiwan, and South Korea**

FIGURE 8

Intra-Asia Pacific Merchandise Trade 1995–2000

Billions of Dollars



Pacific market. The "German Center" offers German businesses an opportunity to avoid much of the overhead cost associated with conducting business in the region. These services include offering free office space and basic business and translating services. The first "German Center" was so successful in expanding business for German SME's in Asia Pacific, a second "German Center" is under construction in Shanghai and others in Seoul, Beijing, and Hanoi are in the planning stage. In comparison, the U.S. Foreign Commercial Service does not have adequate resources to provide services on the scale of such "German Centers" to American small and medium sized enterprises. (See Figure 9 on page 29)

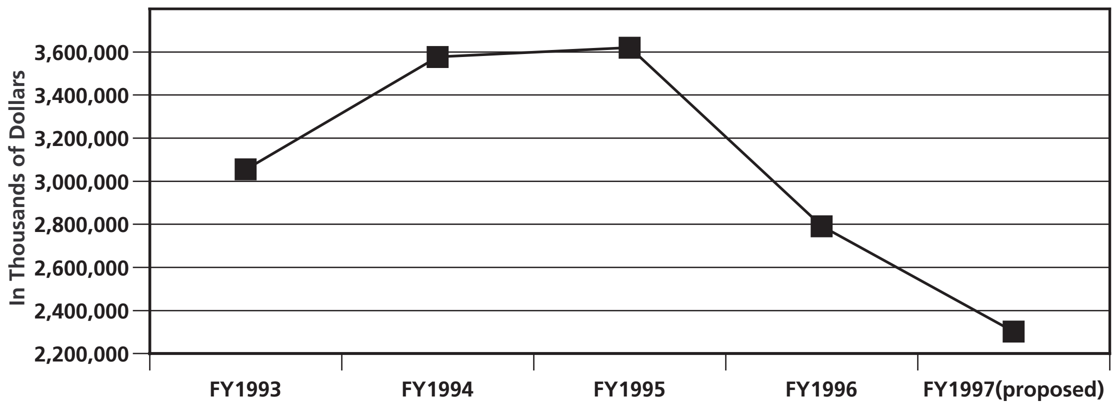
In 1996, the United States allocated only $684 million in foreign aid to the region, just 4 percent of total American foreign assistance. In the same year, Japan gave Asia Pacific nations $4.1 billion in foreign aid, 31 percent of its total development assistance. Even European nations allocated a larger proportion of their aid to the region — Germany 11 percent and France 10 percent — than did the United States.[44] These statistics, however, obscure the fact that Japan and European nations apportion a majority of their aid to technical assistance, while the United States dedicates most of its assistance to basic human needs. In 1995, the United States allocated $43.9 million in government spending for development-related feasibility studies, compared to Japan's $250 million and Germany's $159 million.[45] Such government assistance often paves the way for exports. For example, if a government funds the feasibility study for a generating plant, helps write the specifications for the project, and provides subsidized credit to finance the project, its firms are likely to get the contract to build and supply the plant.

U.S. Trade Resources Diminishing in Asia Pacific and Rest of World

FIGURE 9

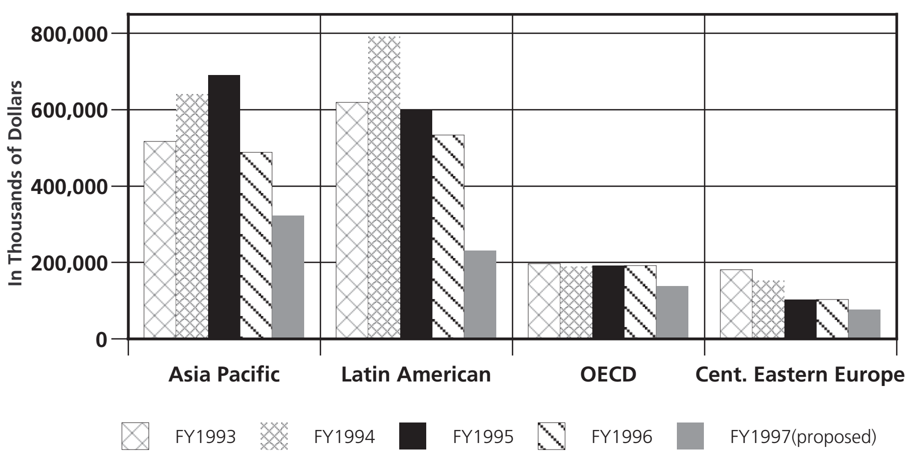
U.S. Trade Promotion Expenditures

Total Expenditures



U.S. Trade Promotion Expenditures

By Geographic Expenditures



Notes

1. Trade promotion expenditures include the following: negotiating open markets & lowering/removing trade barriers, combating foreign export subsidies, financing & insuring U.S. trade and investment, providing information/counseling/export-assistance services, providing government-to-government advocacy on behalf of U.S. Business, funding feasibility studies on major infrastructure & development
2. Latin America includes Caribbean expenditures
3. Source - National Export Strategy, Trade Promotion Coordinating Committee, Fourth Annual Report to the United States Congress, October 1996

Source: National Export Strategy, Trade Promotion Coordinating Committee, 3rd Annual Report to the U.S. Congress, October 1996

3 Recommendations

Asia Pacific is undergoing an unprecedented economic transformation, creating a vibrant, rapidly growing market for U.S. exports and investment, but significant barriers inhibit U.S. access to that market. The United States must act now to encourage nations in the region to dismantle those barriers so that American business can fully engage the economies of Asia Pacific.

To that end, the goals of U.S. trade and investment policy in Asia Pacific should be to: (1) promote the economic well-being of the United States through the promotion of free trade and investment; (2) build constructive, long term economic relations with the Asia Pacific region to enhance economic well-being; (3) position the United States as a strong, reliable leader in both the economic and security realms; (4) clearly define and articulate U.S. trade and investment objectives to Americans and Asians; (5) effectively promote American economic interests by using all available trade policy tools — multilateral, regional, bilateral, collaborative, and, if necessary, confrontational; (6) apply these policy tools to specific problems with surgical precision so that trade disputes do not become the only focus of U.S. relations with individual Asia Pacific nations; and (7) recognize that continued strategic leadership in Asia Pacific is dependent on U.S. economic strength and competitiveness in the region.

To achieve these goals, the Commission believes the following policy recommendations should be adopted by the Executive and Congressional branches of government. These recommendations are crafted to fulfill the Commission's mandate: to address market opportunities in the region, to identify the barriers that prevent greater U.S. access to Asia Pacific markets, and to ensure that the U.S. economy benefits from the creation of a maximum number of high wage jobs through active engagement with the Asia Pacific region. Rather than develop a comprehensive framework for U.S. trade and investment policy, a task beyond the scope of this Commission, the Commission has fashioned targeted recommendations that can be effectively implemented in a reasonable time frame.

Recommendation 1: China

- **The United States should continue take an active role in efforts to integrate China into the global economy and to develop China's overall market economy.**
- **China's accession to the World Trade Organization should be conditioned on commercially viable terms. In negotiations, the United States should be inflexible on China's agreement to all WTO principles, including MFN and national treatment, but flexible with regard to the time frame for implementation of other WTO obligations.**
- **Genuine market access for U.S. goods, services, and agricultural products is essential. The United States should pursue improved access to the Chinese market through bilateral and regional initiatives as well as through negotiation for accession to the WTO.**
- **Negotiation of China's accession to the WTO should be completed before any action is taken with regard to granting permanent MFN status to China.**

Incorporating China into the community of nations may be the single most important foreign and economic policy challenge facing the United States at the end of the 20th century. The magnitude of the task and the risks involved are reason for both hope and concern.

The sheer size of China's market and the productive capacity of its industries are unprecedented. Over the past ten years, China's economy grew at an average of 10 percent a year and could surpass the United States as the world's largest economy at some point in the next century. This awakening giant is undergoing a dramatic transformation from a government-controlled economy, largely closed to the world, to one that is more market-oriented and engaged in global commerce. Chinese government reforms have stimulated economic growth, encouraged the maturation of domestic industries, and attracted a flood of outside investment. However, substantial government controls on trade and investment still exist throughout the economy that protect domestic, state-run industries and limit foreign business opportunities. China lacks a legal system characterized by rule of law, due process, and transparency, making commercial ventures, especially by foreigners, both difficult and risky. The government in Beijing has yet to demonstrate its full commitment to the disciplines attendant with membership in the community of trading nations.

Building China's Capacity to Implement Reforms

China faces daunting economic challenges: the privatization of state-owned companies that currently account for a large share of the Chinese economy and employ over a hundred million people; the growing economic inequality between the wealthy coastal regions and the impoverished interior regions that has spawned massive internal migration; a burgeoning population that must be fed, housed, and employed; and serious pollution and other environmental problems. If China is unsuccessful in dealing with these challenges, the future opportunities for trade and investment in China that are of such importance to U.S. business will never materialize.

The Commission recommends an official dialogue between Washington and Beijing to identify areas where the United States could work with China on problems created by its rapid economic development. The opportunities for cooperation include energy, education, environment, and development of the legal system. For example, China has enormous long term energy needs. It also has large reserves of oil, but lacks the technology to extract them. The United States has some of the world's best oil and other energy production technology. Similarly, China's environmental challenges are immense, while the United States has world-class environmental technology. China's management training needs are pervasive and the United States has perhaps the best management training infrastructure in the world, in its universities and its corporations. There are countless similar occasions for mutually beneficial collaboration.

To implement this new cooperative initiative, the United States should reinvigorate the work of the U.S.-China Joint Committee on Commerce and Trade (JCCT). Through the Committee, public and private sector representatives from both China and the United States could develop the financing, investment, technology transfer, and procurement plans for joint projects. The objective of the projects would be to assist China's development and to establish long-term commercial relations between U.S. suppliers and Chinese users in a number of industries. The United States should also offer to develop a long term training program with China that would involve not only formal instruction at universities and other learning institutions, but also internships for Chinese at participating U.S. corporations, labor unions, government agencies, and non-profit organizations. Such programs could be two-way exchanges which would augment the education of Americans about China, as Chinese counterparts were learning about the United States and its approaches to economics and commerce. This training effort could be financed by a public-private partnership, using existing institutions, such as the East-West Center at the University of Hawaii, to facilitate such exchanges.

To help foster U.S. commercial involvement in Chinese economic development, the Commission recommends that the Overseas Private Investment Corporation (OPIC), which insures U.S. investment abroad, and the Trade Development Agency (TDA), which funds export feasibility studies, once again become active in China.

China's Accession to the World Trade Organization

The negotiations on China's accession to the World Trade Organization (WTO) are critical to the long-run economic interests of the United States. They are at the heart of America's new commercial interaction with Asia Pacific and should be based on economic, not political, criteria. The Commission believes that China can only be admitted to the WTO with the understanding that it first accept all WTO obligations in principle, with transition timetables and phase-in periods for issues such as tariffs, non-tariff barriers, and subsidies, where appropriate. Accession should be conditioned upon a substantial down payment of economic liberalization by China that reflects its commitment to economic reform and a series of milestones to measure China's progress toward an open market that show significant signs of progress, particularly in the areas of agriculture and services. This agreement should be monitored carefully.

China has never demonstrated genuine commitment to the two core principles of the multilateral trading system: national treatment, which accords foreign firms every right and advantage available to domestic firms, and most-favored-nation (MFN) trading status, which grants all nations the same trading privileges granted any one nation. Moreover, China's system of limited trading rights, license requirements, state trading, subsidized industries, non-transparent administrative procedures and commercial rules, and trade-related investment measures, are clearly at odds with any meaningful concept of free trade. If China refuses to implement national treatment and MFN, any future market access commitments by the Chinese would be meaningless because American firms and other foreigners would never be able to compete on a level playing field in China. If subsidies and other protectionist practices continue, Chinese firms will have an ongoing unfair advantage when competing in the global marketplace.

Both China's philosophy about trade and its practices must change if the Chinese are to gain the benefits of the international trade regime. There can be no U.S. compromise on China's acceptance of national treatment and MFN. At the same time, because the Chinese commercial environment is a very mixed picture, the timing of China's adherence to various WTO rules and procedures is open to negotiation. In some business sectors, such as textile and apparel production, China is already a world class performer and should be required to submit to global rules quite rapidly. In other sectors, many of them dominated by state-owned industries, China is largely uncompetitive. These industries employ well over half the Chinese work force. To prevent dangerous disruption of the Chinese economy and potential political instability, Beijing needs time to reduce subsidies and lift exclusionary practices related to state-owned enterprises in order to meet WTO requirements. To accommodate these differences, the Commission believes that in the WTO accession negotiations the United States should be firm on principles and flexible on timing.

China's transition to a market-based WTO-consistent economy will take time. During that transition period the United States and China's other trading partners should maintain the right, when necessary, to impose temporary limits on imports from China to protect their domestic companies from surges of competition from Chinese industries that are still aided by the Chinese government. China should receive no compensation for such limits on its exports until the Contracting Parties determine that China has met the obligations of membership.

Finally, Japan, Europe and other Asia Pacific nations have a major stake in reform of the Chinese economy. They should be encouraged to play a more active public role in the WTO negotiations with China, so that the United States is not seen by the Chinese as the sole obstacle to their desire to be a full-fledged member of the global trading community.

Obtaining Market Access for U.S. Goods and Services is Essential

Obtaining genuine market access in China should be a primary U.S. goal. It should be pursued bilaterally, regionally, and multilaterally through the World Trade Organization. Since the bilateral agreement on Market Access for Goods signed in October 1992, China has eliminated import restrictions on more than 1000 tariff categories and opened its market to computers, heavy machinery, and pharmaceutical products.

However, problems remain. China maintains many barriers to the sale of foreign farm products. The U.S. should not conclude WTO negotiations with China without substantial commitments on opening up the Chinese agriculture market, including concessions on trading rights, lower tariffs, access to distribution networks, and elimination of import inhibiting standards not based on scientific principles. Another market access barrier that must be addressed is continued lack of transparency. China should be required to publish all trade-related laws and regulations. U.S. access to China's growing services market, including business services, insurance, banking and other financial services, is limited at best. Although China has begun to open its services market on an "experimental basis" to a number of U.S. companies, U.S. firms still do not have access comparable to that which China enjoys in the United States. Sectors such as telecommunications, insurance, distribution, audiovisual, advertising, and maintenance and repair need to become open to international trade.

Most-Favored-Nation Treatment for China

Unlike other countries, the United States grants China most-favored-nation treatment (MFN) on an annual, rather than permanent, basis. To extend MFN treatment, the President must waive the Jackson-Vanik Amendment of the 1974 Trade Act. The waiver process, which provides for the temporary grant of MFN, is subject to a Congressional resolution of disapproval. The question of whether or not to grant permanent MFN to China has been debated recently among members of Congress and the private sector. The Commission recommends that the negotiation of China's accession to the WTO be completed before the United States grants permanent MFN privileges to China. To grant MFN prematurely would remove a major incentive for China to bring its trade and investment practices into conformity with prevailing world standards.

Recommendation 2: Japan

- **The United States should redouble its efforts to gain greater access to the Japanese market for U.S. exporters and investors, paying close attention to macroeconomic imbalances, structural rigidities, and sector-specific market barriers.**
- **Such market-opening initiatives should creatively use all sources of U.S. leverage in whatever trade forum is likely to maximize U.S. economic interests, including the World Trade Organization, APEC, and government-to-government talks.**
- **To broaden the scope of the U.S.-Japan economic dialogue and give it a consistent, forward-looking goal, the United States should study the feasibility of negotiating a Comprehensive Market Agreement with Japan to eliminate all formal and informal barriers to trade and investment and to establish common rules and enforcement procedures for such things as anti-competitive business practices.**

Japan is America's most important trading partner and most serious competitor in Asia Pacific. American companies compete head-to-head with Japanese companies throughout the world to sell coveted high-technology products that generate high-wage jobs back in the United States.

For some time, Japan has run a huge trade surplus with the rest of the world, including the United States. By almost any measure, the Japanese economy is the most closed to foreign products, services, and investment among the major industrial nations. Japan's persistent failure to consume more of what the rest of the world produces has been a brake on global economic growth. Successive U.S. government initiatives have attempted to break down this resistance to foreign goods and investment. For example, the 1986 semiconductor agreement eventually led to a tripling of U.S. sales of computer chips in Japan.

Japan is the richest nation in Asia Pacific with a large pool of affluent consumers who have long been denied a chance to buy many foreign products. U.S. businesses and workers stand to benefit greatly if Japanese consumers can freely choose between domestic and foreign-made goods and services. Moreover, the existence of a sanctuary Japanese home market, free from profit-sapping competition from foreign firms, gives Japanese companies an important competitive advantage that enhances their ability to go up against U.S. companies in other parts of Asia Pacific. Furthermore, continued difficulties facing U.S. investors in Japan deny American firms necessary access to cutting edge technologies and rapidly changing consumer tastes that are only available to companies with a direct presence in the region's largest economy.

Faced with a prolonged sluggish economy and worried about the competitive future of its manufacturing and service industries, recent Japanese governments have promised deregulation of the economy. However, deregulation has often been tailored to help national champions, enabling them to reorganize while shielding them from foreign competition. Moreover, the Japanese government still resorts to traditional industrial policies to bolster key industries, such as telecommunication satellites, and computer hardware and software.

Over the years, there have been several initiatives to help American businesses crack the Japanese market. In 1985-1986, the Reagan Administration launched a series of market-oriented, sector-specific talks, which covered telecommunications, electronic goods, forest products, medical equipment, and pharmaceuticals. At the same time, with the Plaza Accord in 1985, the G-7 nations agreed to a revaluation of the yen versus the dollar to price U.S. products more competitively in the Japanese market.

Subsequently, the Bush Administration's Structural Impediments Initiative (SII) attempted to strengthen Japan's antitrust enforcement and to open its retail distribution system to large stores that would be more likely to sell imported products. The Clinton Administration pursued a framework approach, combining macroeconomic, structural, and sectoral negotiations, using objective criteria to measure what was happening in the marketplace. It also initiated an effort to monitor existing trade agreements to insure their fulfillment.

The Commission recommends a continuation of the current multi-pronged effort to reduce Japanese trade and investment barriers. Macroeconomic discussions are necessary to insure that exchange rates are determined free from government manipulation. Structural talks are needed to insure that the rules governing access to the Japanese economy are similar to those in other major industrial nations. Sectoral negotiations are needed to guarantee that all sectors of the Japanese economy are equally open to foreign competition. To maximize the effectiveness of these negotiations, the United States should pick a limited number of targets and be willing to use all the trade tools at its disposal in multilateral, regional or bilateral fora to gain maximum opening of the Japanese market.

In the end, U.S. public and Congressional support for free trade with Japan cannot be sustained if future trade arrangements do not result in greater market access to Japan, or if Japan is perceived not to have fulfilled both the letter and the spirit of trade deals. For these reasons, the Commission recommends that the United States continue to track implementation of trade accords with Japan and to aggressively pursue all available trade remedies whenever fulfillment of agreements is lacking.

While continuation of the current issue-by-issue negotiating strategy is necessary to chip away at Japanese trade and investment barriers, it is unlikely that by itself this approach will fully resolve the problems of Japan's closed markets. Moreover, issue-by-issue negotiating tends to be driven by specific corporate complaints and is thus episodic, reactive, and adversarial. It casts the United States as a bully while enabling Japanese negotiators to assume the position of defender of the national patrimony against unreasonable foreign demands. The result is an increasingly embittered and distrustful U.S.-Japan relationship.

To create a long-term positive trade negotiating goal that could benefit both nations and provide a vision for the future, the Commission recommends that the U.S. government study the feasibility of negotiating a Comprehensive Market Agreement between Japan and the United States. Such an agreement would include all the aspects of a standard free trade agreement, but would go beyond such a pact by creating agreed upon procedures with regard to investment, anti-competitive business practices, administrative procedures, and a range of other sectoral matters often identified as structural trade and investment barriers.

It is the hope of the Commission that the proposed Comprehensive Market Agreement would provide a mechanism for broad engagement with Japan while giving the Japanese reformers a concrete means for overcoming objections and achieving the deregulation and reform that would be in the interest of both Japan and the United States. Thus, a true win-win situation might be created.

The Commission is aware of the difficulties this proposal will face and wishes to emphasize that nothing can be achieved without the willing and open commitment of Japanese business and government leaders to deregulation that leads to an open Japanese economy. It is for this reason that the Commission recommends a preliminary feasibility study be done to assess the real possibility of success on both sides before any formal proposals are put forth.

Recommendation 3: Domestic Initiatives: Fast Track Negotiating Authority and Economic Balance of Benefits Study

Fast Track Negotiating Authority

- **Broad and flexible U.S. trade negotiating tools, such as fast track authority, should be used to help facilitate regional trade liberalization and to advance American economic objectives in the region.**

The Executive Branch negotiates trade agreements under authority granted by Congress. Congress then has the right to approve or disapprove agreements. Trade agreements are unavoidably complex by nature, dealing with tariff and non-tariff issues, and the interests of a wide range of industries, consumers, and labor. If normal legislative procedure were followed in approving such deals, with multiple amendments permitted by Congress, few countries would ever sign trade agreements with the United States because they would never be sure of the bottom line. Since 1974, Congress has used expedited procedures to approve the GATT Tokyo Round Agreements, the U.S.-Israel Free Trade Area, the U.S.-Canada Free Trade Area, the North American Free Trade Area (NAFTA), and the Uruguay Round agreements. Under these "fast track" procedures, Congress agrees to limit itself to a simple up or down vote on the legislation implementing a trade agreement, without the possibility of amendment. The process provides for a 90-day timetable within which Congress must act. Failure to act within 90 days is deemed to constitute approval. In order to use fast track authority, the Administration must follow carefully prescribed procedures throughout the trade negotiations, including cooperation in Congressional oversight and solicitation of extensive advice from the U.S. private sector, labor, and state and local governments, and environmental groups.

Without fast track authority, U.S. negotiating credibility and the prospects for success in advancing trade liberalization are severely undermined. As trade alliances throughout the globe increase in importance, the ability of the United States to create strategic alliances and to move swiftly to take advantage of opportunities to lock in market liberalization will be critical to defining America's leadership role in the next century. China is building new commercial and strategic alliances to confront U.S. economic power in Asia Pacific and elsewhere. Japan, South Korea, and others have taken new, highly visible commercial initiatives and are determined to compete globally. Since the United States has the most open markets in the world, entering into trade negotiations with fast track authority can only be a positive for the United States. Within Asia Pacific, intra-regional preferential trading agreements are rapidly changing the competitive rules of the game. Moreover, the goals set by APEC will not be met without fast track authority being granted to permit the United States to make contributions to liberalizing trade along with its APEC partners. If not for residual negotiating authority from the Uruguay Round, the trade opportunities created by the recently concluded Information Technology Agreement would not have been possible. The United States needs tools to lead, negotiate, and conclude and implement agreements with its trading partners to ensure it can create opportunities in other key sectors and in dynamic, strategic markets throughout the region and the world.

Over the years, fast track authority has been renewed periodically, with modified guidelines and objectives, to reflect changes in American interests and trade initiatives. However, conflicting Congressional constituencies, domestic politics, disagreement over negotiating objectives, and a public divided over the merits of trade agreements, have prevented renewal of fast track authority since it expired in 1994. Fast track authority would lend greater credibility to U.S. negotiators and would allow the United States to exert greater leadership in APEC and the WTO.

The Commission recommends that broad trade negotiating authority for the Executive Branch and fast track Congressional approval procedures be renewed immediately, for at least a four-year period. This would permit the United States to fully participate in planned APEC trade liberalization, to negotiate selective free trade areas with Asia Pacific nations, and to advance initiatives in the WTO that address specific trade problems, such as competition policy, that are particularly prevalent in the region.

Economic Balance of Benefits Study

- **The United States government should prepare an "economic balance of benefits study" after the negotiation of major trade agreements.**

In order to assure that trade agreements do indeed bring tangible benefits to the U.S. economy, its companies and workers and to win support for such accords in Congress, the Commission believes that a study of the balance of economic benefits should be prepared at the conclusion of major trade negotiations. This study should be undertaken by the independent U.S. International Trade Commission, which is responsible both to the Administration and to Congress. The balance of benefits study would be publicly available, in contrast to the currently mandated "Probable Economic Effects" studies that are classified and are primarily reviewed only by government negotiators.

The study would serve several purposes. It would help gain public support for more aggressive market expansion initiatives and related additional U.S. trade liberalization. It would impose discipline upon our trade negotiators to more clearly define and publicly articulate the concrete benefits each agreement would bring to the United States. It would also help American workers and industry to foresee and assess the potential challenges posed by a trade deal. In order to accomplish this goal, the study should summarize the primary objectives of the agreement, the sectors and products affected, the anticipated increase in exports and imports, the estimated number and types of jobs created and lost, the laws and regulations affected or necessary to implement the agreement, and issues related to the environment and workers. An impact study would provide a common analytical base from which to discuss the merits of a particular trade agreement in Congress and among the general public, and would help to educate Americans about the benefits derived from trade and investment as well as the costs of global integration.

Recommendation 4: Competition Policy

- **The Commission recommends that the Administration formulate a coherent policy to address problems of market access arising from anti-competitive behavior in foreign markets. The policy should be formulated in consultation with Congress and the private sector to ensure domestic support for possible changes, to the extent appropriate, in trade and domestic antitrust legislation.**
- **The U.S. government should initiate international discussions on improving cooperation between national competition authorities, provide technical and educational support for nations attempting to implement antitrust policy, and pursue bilateral and plurilateral competition policy agreements.**
- **The United States should conduct an annual review of abuses and progress in the international use of competition policy drawing from the National Trade Estimates report; self initiate anti-dumping cases where sustained price differentials between the U.S. and foreign markets suggest anti-competitive practices; and use section 301 of the Trade Act of 1974, as amended, or use antitrust laws to issue cease and desist orders, where appropriate under existing law, against certain anti-competitive foreign practices that burden or restrict U.S. commerce.**

America's participation in the multilateral trading system rests on a political consensus that the domestic market should be kept relatively open to investment and to imports of goods and services from the rest of the world. Essential to the maintenance of that consensus is the expectation that other major world markets are similarly open or, in the case of developing countries, will be open within a reasonable period of time. While the elimination of conventional trade barriers is essential, it is insufficient to ensure genuine market access. What multilateral trade negotiations may grant, industry targeting policies by governments and restrictive business practices may deny. The removal of border barriers frees American firms from the obligation to pay tariffs or to suffer the constraints of import quotas, but these firms may find their ability to compete impaired by price fixing, cartels, bid-rigging, and market allocation arrangements. They may also face barriers such as "tying" and "exclusive dealing", practices that prevent domestic distributors from offering foreign products or services.

Competition policies aim at eliminating such practices through the establishment of legal regimes that prevent the abuse of dominant positions by firms. These regimes exist in most developed countries, though the efficacy of the laws and their enforcement varies dramatically. In the United States, there is a comprehensive system, embodied in such laws as the Sherman Act, the Clayton Act, and the Federal Trade Commission Act. The Treaty of Paris and The Treaty of Rome impose these disciplines within the European Union. The need to establish comparable systems is particularly urgent in Asia Pacific. There, many of the world's largest corporate entities operate with weak or non-existent antitrust laws and enforcement.

The Commission recommends that the International Trade Commission prepare a study of the competition policy regimes of our major trading partners including levels of enforcement, with a special emphasis on the problems encountered in Asia Pacific. This analysis will address serious concerns in the U.S. private sector that there has been inadequate study of competition policy issues to date.

Once that study is completed, the United States should take the lead internationally in the development of rules, and/or processes to deal directly with problems arising from anti-competitive practices and industry targeting policies. The Organization for Economic Cooperation and Development (OECD) is the most likely forum for immediate action. Composed of developed countries, OECD work on competition policy dates back to 1967. The group, which includes two Asia Pacific nations, Japan and South Korea, already has accepted guidelines on notification, exchange of information, and coordination of action among national antitrust authorities. A new working group on competition and trade seeks to merge experts from both fields in policy-making.

To make rapid progress, the U.S. government would need to coordinate positions with its partners in the European Union, Canada and Japan, laying the groundwork for decisions at the OECD Ministerial. This process will also serve to develop a coordinated outcome for the WTO working group on competition, established at the 1996 trade ministerial meeting in Singapore. Finally, the United States should participate actively and at a high level of representation in the APEC working group on competition. The participation would signal a new U.S. interest in elevating the role of Asia Pacific regulators in the policy-making process for APEC. The APEC working group can also serve to help countries with no antitrust laws, such as Malaysia and Indonesia, to formulate appropriate competition legislation and policy.

While experience with antitrust policies has been extremely limited in a number of Asia Pacific countries, there is growing interest. The Commission believes that the United States should provide technical and educational support in this area to legislators, jurists, and enforcement authorities. This process should replicate recent efforts to develop an awareness of the importance of intellectual property protection.

The Administration should give high priority to encouraging Asia Pacific governments to cooperate with the United States in enforcing U.S. and their own national antitrust laws. Such cooperation could occur in the context of general Mutual Legal Assistance Treaties, or as ad hoc arrangements. Through these agreements, national competition policy authorities could exchange documents and evidence, and prosecute violators.

One way to create pressure for resolution of difficult problems is to shine the sunlight of public attention on them. The United States has employed monitoring and sunshine measures for a number of years to highlight trade barriers and egregious trade practices, using public exposure to create leverage for negotiations. For instance, the 1988 Trade Act mandates annual publication of trade and investment barriers in the annual National Trade Estimates report. Other statutes require annual reviews of government procurement practices, telecommunications barriers and the protection of intellectual property rights. These reports have involved the creation of "watch lists" and "priority watch lists" that rate countries on the practices in question. Experience shows that countries do not like to be included in these lists and that the threat of inclusion often results in trade liberalization. Sunshine also creates public pressure for change in other countries by educating consumers on the real costs of these practices in their economies.

The Commission recommends that the United States government conduct an annual review of anti-competitive practices and industrial targeting in other countries, with particular emphasis on Asia Pacific, and assess the effect of such practices on U.S. industry and workers. This review could identify cases of significant price differentials for the same good or service in different markets as an indication of the possible existence of anti-competitive practices or the use of sanctuary markets for predatory trade activity. The review could examine industry targeting measures and other anti-competitive behavior. This study should also use sunshine to highlight good practices and the progress countries are making in eliminating anti-competitive practices.

The Commission also recommends that in combination with these new sunshine measures, more active application be made of U.S. trade laws to combat competition problems. The Secretary of Commerce should exercise existing authority to self-initiate anti-dumping cases against foreign producers where the competition study shows egregious price differentials exist between products sold in the U.S. market and the same product sold abroad. The Commerce Department generally relies on American business to bring anti-dumping cases, but the rising cost of such litigation means that many important anti-competitive practices by foreigners are never challenged. The Commission also recommends that the Administration make judicious use of authority under section 301 of the Trade Act of 1974, as amended, to address foreign anti-competitive practices and industrial targeting. The statute identifies government toleration of systematic anti-competitive activities by or among private firms to be a cause for action.

While implementation of the above measures is highly desirable, it will clearly be some time before there is a comprehensive regional or global competition and industrial policy regime. In the meantime, it is necessary for the United States to have adequate tools for dealing with anti-competitive practices and policies that harm U.S. commerce. In this regard, the Commission recommends that Congress pass legislation directing USTR to bring instances of anti-competitive activities that burden U.S. commerce to the attention of the Federal Trade Commission (FTC), directing the FTC to investigate such notifications and, where appropriate under existing law, issue cease and desist orders at its discretion while reporting all findings to Congress. The legislation should also direct the FTC to notify USTR of all findings in which foreign governments are involved in perpetrating anti-competitive activities. Additional resources should be allocated to the international antitrust divisions of the Justice Department and the FTC to ensure that the United States aggressively pursues cases of anti-competitive behavior.

Recommendation 5: Human Rights, Worker Rights, and the Environment

Human Rights

- **The U.S. should work with Asia Pacific nations and in multilateral fora to promote human rights, but should do so in a manner balanced with U.S. commercial interests.**

Human rights are fundamental and cherished American values, as well as a key concern that drives U.S. foreign policy. This heritage of idealism and support for individual rights dates back to the Declaration of Independence. It is a profound asset to U.S. leadership in the world.

The United States must do what it can to work with the nations of Asia Pacific to promote human rights through changes in their institutional, legal, and political structures. Moreover, international commercial interaction, economic growth, and progressive liberalization of trade and investment will, over time, help inculcate the rule of law in national legal regimes. The unilateral linkage of progress on human rights to continued access to the U.S. market may not be the most effective way to advance the cause of human rights.

The United States should pursue a human rights policy that is both consistent and results-oriented and that will be comprehensible to U.S. allies in the Asia Pacific region and gain their support. Consistency is important to ensure that each nation of the region is held to the same standard, regardless of form of government or relationship to the United States. Results count above all, since the more respect for human rights there is in Asia Pacific, the better U.S. relations will be with all the countries in the region. Continued progress is important. China, for example, has recently indicated it is positively considering signing the International Convention on Civil and Political Rights and the International Convention on Economic, Social, and Cultural Rights. The United States should encourage China, and other Asia Pacific countries to sign such international conventions.

Worker Rights and Labor Standards

- **The United States should support an active international dialogue on the relationship between trade and labor and encourage collaboration between the International Labor Organization and the World Trade Organization to help address worker rights and labor standards problems in Asia Pacific.**

Freedom of association, the right to collective bargaining, the prohibition of forced labor, non-discrimination in employment, and prevention of the exploitation of child labor are all basic human rights and common norms that all societies are pledged to respect. They are important economic issues and relate quite properly to trade. Promotion of these rights and labor standards is not designed to deny legitimate comparative advantage that some countries enjoy based upon lower wages.

The Commission believes that labor issues should be addressed by both the International Labor Organization (ILO) and the WTO. To this end, cooperation between the WTO and the ILO should be encouraged. The United States should also continue to advocate the creation of a WTO working group on worker rights and labor standards.

In addition, the United States should encourage greater cooperation between governments and the private sector within the Asia Pacific region to promote labor rights. U.S. businesses manufacturing abroad should be encouraged to adopt “codes of conduct” that address working conditions. There is evidence that recent purchases by large American wholesalers and retailers who demand high ethical behavior by their suppliers are beginning to have some positive effect on labor conditions in Asia Pacific. The United States should assist in the expansion of these efforts by facilitating dissemination of information on codes of conduct.

The United States should also heighten global awareness of worker rights and labor standards by publishing an annual study of working conditions abroad, including conditions in Asia Pacific.

Finally, consistency in all such U.S. efforts is critical. U.S. security and diplomatic ties with nations in the region should not mute concern for labor rights. The United States must treat allies in the same manner as countries with which it does not have as extensive political and security ties.

Environment

- **The United States should encourage a trade and environment dialogue with Asia Pacific by enhancing the coordination between trade and environment experts and supporting the APEC environmental agenda. When entering into a free trade agreement with one of the countries of Asia Pacific, the United States should review the environmental implications of such an agreement.**
- **The United States should work with the Group of Seven (G-7) countries to develop a coordinated approach to international environmental policy including common environmental guidelines for export credit agencies.**

Support for environmental measures is growing slowly in Asia Pacific. However, there is still the sentiment that environmental measures in the West are used to disguise trade protectionism. In addition to the WTO Working Group on Environment, one way to break down these assumptions is to encourage greater coordination between trade experts and environmental experts in the region. APEC has well developed trade and environment groups at the staff and ministerial levels. The Administration should suggest that these officials have specific joint meetings as is done in the OECD. Moreover, the Commission believes that the United States should urge greater coordination at the national level among these experts in each APEC economy. Trade policy officials can help to ensure that measures that are adopted to achieve environmental objectives are consistent with a country's international obligations, while environmental officials can help to insure that trade policy is conducted in a manner that is sensitive to environmental concerns. Input into policy discussion from both types of experts will ensure that these two areas of policy-making are mutually supportive in order to promote sustainable development.

The Commission believes that the new APEC environmental agenda should be encouraged. By developing environmental policies, Asia Pacific can ensure that its economic development goes hand in hand with environmental improvement. APEC's first Ministerial Meeting on Sustainable Development, held in 1996 in Manila, laid out a work program that includes sustainability of the marine environment, clean production/clean technology and sustainable cities. The Ministers emphasized that their work on sustainable development underscores complementarities between trade liberalization, economic development and environmental protection.

The Commission has highlighted the importance of obtaining fast track authority to further liberalization in APEC and to negotiate a free trade area with one or more of the countries of Asia Pacific. The Commission believes that the United States should review the environmental implications of a free trade agreement as part of the development of its negotiating position, i.e., through its public and advisory committee comment processes and its consultations with Congress. Useful models for such a review include the environmental reports to Congress done for the NAFTA and the Uruguay Round Agreements to assess the impact of trade liberalization on the environment. The United States should encourage its trading partners to do likewise.

The Commission also believes that issues of trade-related environmental policy should be addressed multilaterally in the WTO, in U.N. agencies, and in the context of on-going work among the Group of Seven (G-7). As host of the next G-7 meeting, the United States should raise two issues of importance for Asia Pacific: the importance of assisting environmental protection in developing countries and establishing common environmental guidelines for official export credit agencies. Helping the countries of the Asia Pacific region to develop in a sustainable manner is in the U.S. interest as is ensuring environmental protection without the loss of export competitiveness.

Recommendation 6: Foreign Direct Investment Liberalization

- **The United States should intensify its efforts to conclude the Multilateral Agreement on Investment. Upon completion of the agreement, the United States and the OECD should encourage non-OECD countries in the Asia Pacific region to join.**
- **The United States should foster greater regional and bilateral dialogue on the merits of investment liberalization and encourage Asia Pacific nations to sign Bilateral Investment Treaties with the United States.**
- **The United States should actively oppose mandated technology transfer as a condition of foreign direct investment. To the extent that this practice remains outside of the WTO, the United States should continue to rely on available bilateral tools to combat it.**

Given the importance of investment to American competitiveness in the Asia Pacific region, liberalization of investment should be a high priority for the United States government. The government should use all means — multilateral, regional, and bilateral — to promote common international rules on investment.

To advance investment liberalization in the Asia Pacific region, the Commission supports successful completion of negotiations on a Multilateral Agreement on Investment (MAI) within the OECD. The U.S. goal in these negotiations should be to obtain agreement on disciplines based on the investment provisions contained in NAFTA, the most comprehensive international investment rules in existence today. Once consensus is achieved by OECD members, the United States should actively work with Japan, South Korea, and other OECD partners to encourage other key Asia Pacific countries to accede to its provisions.

Asia Pacific countries have negotiated numerous investment agreements with Europe, Japan, and other regional players, but some Asia Pacific countries have demonstrated reluctance to adopt high level disciplines on investment. These agreements do not address the issue of right of establishment, a key element of all U.S. Bilateral Investment Treaties. The United States government needs to thoroughly assess why the 15 year-old bilateral investment treaty program has had so little success in the region and determine how to improve the prospects of success in the future. At the same time, the U.S. government should continue its efforts to educate Asia Pacific nations on the merits of investment liberalization and the standards of established behavior investors demand in order to invest. APEC and bilateral discussions both can play an important role in this education process.

Recommendation 7: Multilateral Solutions to Asia Pacific Trade and Investment Problems

- **The United States should continue to promote its economic interests in Asia Pacific through active use of the WTO's dispute settlement mechanism and through expansion of the WTO's rules. Additional resources should be provided to ensure these objectives are met effectively.**
- **U.S. trade negotiators should be mindful that despite MFN and National Treatment provisions of the WTO, inequities in the global trading system remain. Any maintenance of regulatory regimes that do not promote competition and access to foreign markets, while locking open the U.S. market, is not in the U.S. interest.**
- **To promote equity in the system, U.S. policy should be guided by the principles of mutuality and contestability of markets. As a first step, in any new WTO negotiation addressing issues not now covered by mutilateral disciplines, the United States should resist joining a global consensus until a critical mass of key trading partners provides mutual benefits that meaningfully expand market access.**

In order to ensure that the U.S. economy reaps the full benefits of the Uruguay Round, the United States should aggressively promote its interests through proactive use of the WTO's new dispute settlement mechanism. The United States should be bold and imaginative in filing cases to stretch to the maximum the scope of WTO rules. Asia Pacific nations, in particular the more developed countries of Japan and South Korea, must be held to the spirit, as well as the letter, of their WTO commitments. Replacement of WTO inconsistent measures with barriers designed to offset the balance of benefits achieved in trade negotiations should not be tolerated. Whenever possible, as in the dispute regarding the Indonesian auto policy, the United States could join with others in opposing trade and investment barriers in the region, because all nations ultimately suffer from such obstacles to free trade.

The United States already is the most active user of the new WTO dispute mechanism. In 1996 alone, the United States was a party to 20 cases before the WTO, 5 times as many as in 1991. However, the General Counsel's office at USTR is no larger than when it was handling one to eight cases a year. A more intensive litigation strategy will require more financial and human resources than are currently available to USTR.

The United States stands to gain tremendously by pursuing WTO cases against trading partners that are not opening their markets. A solid WTO track record for effective and rapid resolution of trade problems with Asia Pacific nations would go a long way toward establishing American public confidence in the benefits of the world trading system.

The United States should also take the lead in expanding the scope of the World Trade Organization to address new challenges to free and fair trade and investment. This is an area where U.S. leadership has been critical in the past; it is no less critical now. Major sectors of the international economy, such as financial services, aviation, and shipping, are not yet covered effectively by specific multilateral commitments and obligations. Many non-tariff trade barriers widely prevalent in Asia Pacific, such as industrial policies, anti-competitive practices and major access questions on investment, have yet to be addressed. These issues are difficult, not yet well defined, and will take some time before an international consensus can be achieved. Nevertheless, the United States should continue to use whatever means possible to advance substantive global debate on these new areas and develop disciplines that promote the fundamental goals of the WTO and U.S. interests.

The Commission believes that the United States should only agree to extend global trade and investment rules on the basis of mutually open markets. To accomplish this goal, it may be necessary for the United States to consider alternative ways to provide global leadership and develop consensus in new areas of concern. For example, the Commission commends the position taken by the Clinton Administration to withhold further concessions in the WTO on financial services and telecommunications until all other significant economies provide greater mutuality in market access. Another approach, already being pursued, is to develop initial agreements among a sub-set of WTO members, for example in the OECD, APEC, or some other group of like-minded countries. The OECD's effort to negotiate a Multilateral Agreement on Investment and the existing Government Procurement Agreement are two such efforts.

The U.S. market is, with a few notable exceptions, among the most open in the world. But in key areas of commercial interest to the United States, for example in the financial services sector, other nations have not been willing to undertake significant market liberalization. This reluctance to open markets in sectors of their economies where the United States has a comparative advantage in trade and investment raises doubts about the benefits the United States derives from international agreements. To correct that problem, in recent multilateral negotiations over financial services and telecommunications, the United States initially refused to provide greater access to the American market in the absence of substantial commitments of liberalization from other key trading partners, particularly those in Asia Pacific. The Commission suggests this negotiating tactic be employed in future efforts to develop new areas of international discipline.

Recommendation 8: APEC and Selective Free Trade Areas

APEC

- **The United States should encourage APEC to produce concrete initiatives that further trade and investment liberalization in Asia Pacific. APEC should continue to be a major anchor for the United States in Asia Pacific as long as it delivers steady progress on regional integration, economic cooperation, trade facilitation, and market liberalization.**

Since its inception, APEC has been a complementary forum to American multilateral and bilateral initiatives on trade and investment. The United States should continue to support APEC in its efforts to achieve full trade and investment liberalization in the region. In addition, APEC should be used to deal with a range of issues such as customs procedures and administrative standards, human resource development, small business support, infrastructure networks for telecommunications and transportation in the region, and support for the environment. The achievement of APEC's goal of free and open trade in the region by 2010 for industrial nations and 2020 for developing countries requires strong leadership by the United States and steady tangible progress. United States engagement in APEC is imperative in order to achieve a more liberal and free trade environment in the region.

Free Trade Areas (FTAs)

- **The U.S. should pursue selective bilateral or plurilateral free trade areas with interested Asia Pacific trading partners.**

Free trade areas can be an important tool for trade liberalization. The WTO permits the establishment of free trade areas between like-minded countries as long as they: cover substantially all trade between the parties; are phased in within a reasonable period of time; and do not raise barriers to third parties higher than those that existed before the free trade area was established.

Since the creation of NAFTA, several Asia Pacific nations, such as South Korea, Taiwan, and Singapore, have each indicated an interest in either joining NAFTA or negotiating a separate bilateral free trade agreement with the United States. The Commission recommends that the United States respond to such interest by opening negotiations for WTO-consistent free trade areas with one or more of these Asia Pacific countries. Such an initiative would necessarily have to address more than border measures to provide mutual economic benefit for the United States. Internal barriers to trade and investment, such as competition and investment policy and standards, would also have to be addressed.

FTA's could prove beneficial for several reasons. Even announcement of America's intention to create one or more bilateral free trade areas in the region could accelerate competition for scarce capital in the region and create momentum for APEC-wide trade and investment liberalization, bringing the benefits of market opening to American traders all the sooner. For example, negotiation of a free trade area with Singapore, which already has a relatively liberal trading regime, could help American firms to compete more effectively in ASEAN. An immediate benefit for U.S. companies would be access to Singapore's service sectors. Entry into the Singapore market could also serve as a stepping stone into the service sectors of other ASEAN economies. Moreover, an FTA with Singapore would lead to better market access in ASEAN for key U.S. products, including software, chemicals, and pharmaceuticals. The Commission also recommends considering the Philippines, Taiwan, and under certain circumstances Japan, as possible free trade partners.

Recommendation 9: Exchange Rates

- **The Commission recommends that the U.S. government should pay careful attention to the impact of exchange rates on U.S. commerce. It should be particularly vigilant to ensure that foreign governments do not manipulate their exchange rates to achieve competitive advantage.**

While trade negotiators have concentrated on reducing tariffs and removing other trade barriers, exchange rate movements continue to have a significant influence on trade and investment flows. For example, in 1996 as negotiators labored to lower average tariffs around the world on information technology from 15 percent to zero, the dollar appreciated 11.6 percent against the yen and 9.6 percent against the German mark. Such exchange rate movements can easily overwhelm hard fought gains from tariff reductions. To insure that U.S. economic interests are not disadvantaged by exchange rate manipulation, the Commission recommends that the government pay greater attention to exchange rate movements and their impact on U.S. foreign trade and investment. It should also be vigilant to ensure that foreign governments do not manipulate their currency exchange rates.

Recommendation 10: Greater Priority to Asia Pacific

- **U.S. trade and investment interests in the Asia Pacific region should be given significantly higher priority and visibility within the U.S. government.**
- **The Commission recommends that greater resources be allocated for monitoring trade agreements with Asia Pacific economies.**
- **The United States should establish a permanent high-level trade and commercial office in the Asia Pacific region headed by an official with ambassadorial rank to monitor economic trends in Asia Pacific, to help implement U.S. trade and investment policy in the region, to assist in negotiations, and to advocate U.S. commercial interests in the region.**

U.S. trade and investment interests in the Asia Pacific region need to be given higher priority by the U.S. government. The Commission proposes the establishment of a permanent high-level trade and investment office to be located in one of the major metropolitan centers of the Asia Pacific region. This office would be headed by a Special Presidential Representative for Asia Pacific with ambassadorial rank. The office would have the same diplomatic status as the U.S. missions to the United Nations, the European Union, the Organization for Economic Cooperation and Development, and the World Trade Organization.

The Office of the President's Special Representative for Asia Pacific would have several important functions. The office would not be directly responsible for formulating policy. It would execute and help coordinate trade and investment policy and trade promotion activities in the region for the Office of the United States Trade Representative, the Departments of Commerce, State, and Treasury, the Export-Import Bank of the United States, and the Overseas Private Investment Corporation. In this capacity, the office would gather information, build relationships with senior Asia Pacific government officials, meet with high level business executives and opinion elites, and help develop coalitions for market liberalization among consumers and businesses in the region. The Special Representative could attend APEC meetings and support U.S. negotiations for the United States on certain trade and investment issues. Furthermore, the office would serve as a conduit for informing Washington on the policies and intentions of the Asia Pacific countries and would help monitor the regional policy initiatives of ASEAN and the Asian-Europe dialogue.

The office would also serve as a regional public relations center to articulate U.S. policies and approaches to trade and investment in the region, countering misrepresentations of U.S. motives and actions in Asia Pacific. This local presence would serve to provide on the spot advocacy for American industry. The office would assist U.S. firms in identifying regional trade and investment opportunities, act as a liaison with the Asian Development Bank, and help secure regional procurement and infrastructure contracts for American firms.

An important function of the office would be to play an integral role in expanding U.S. trade between small and medium sized enterprises (SMEs) and the region. SMEs are an important part of the U.S. economy, employing over half of the private workforce, accounting for half of U.S. GDP, and accounting for over 30 percent of U.S. exports. However, most SMEs do not have the adequate tools, resources, and experience to effectively compete internationally. To help these firms gain greater exposure in the region, the Commission recommends that the office serve as a regional one-stop-shop for the support of small and medium-sized U.S. businesses trying to enter Asia Pacific markets, similar in function to the "German Center" in Singapore.

The Commission believes that a high-level regional office cannot be successful without adequate human and financial resources. The Commission is aware of the current need for budgetary restraint by the U.S. government. The Commission is also conscious of the increased economic significance of Asia Pacific, the substantial financial resources other nations now commit to the region and the important role Asia Pacific governments play in determining market access for trade and investment. For these reasons the Commission believes that a significant increase in overall U.S. spending in the region is essential.

4 Endnotes

1. For the purpose of this study, the Commission defines Asia Pacific as Japan, South Korea, China, Hong Kong, Taiwan, Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, and Thailand

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Additional Statements

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One area of our trade relationship with Asia Pacific that is not explicitly mentioned in the Commission's Report is dumping. There is a very constructive recommendation that the Secretary of Commerce should be more aggressive in initiating anti-dumping cases. There is, however, no discussion of the common practices of Asia Pacific nations who currently engage in dumping and, as a corollary, why U.S. anti-dumping laws remain a critical tool in our trade arsenal.

Repeal of our anti-dumping laws is often suggested as the price we should be prepared to pay for increased cooperation on developing competition policy standards. We do not believe, as yet, there is any reason to view this as a possible tradeoff. Dumping is a well established tool of mercantilist economies; competition policy standards are uneven and enforcement is often problematic.

In regard to China, there is increasing recognition of the fact that we are locked in a heated competition with Europe and Japan, which China often uses as a trump card. We need to do more, particularly on a bilateral basis with both the European Union and Japan, to achieve a united front on issues of common concern — market access being one such area.

The Trans Atlantic Business Dialogue (TABD) is a promising forum for exploring common interests with the E.U. It should be used in regard to China's WTO accession, market access, transparency, and trading rights. It could also serve as a vehicle for frank discussions on how to deal with China's policy of playing us off against each other.

Lawrence M. Johnson and Ko-Yung Tung, "Toward a Prosperous Pacific"

In either the global or regional context, the scattered Pacific Islands hardly constitute a major market for the United States. However, the island-states are located between the world's two largest and most dynamic economic regions, Asia Pacific and the United States, and by virtue of their location assume their important role. The tranquility of the islands is critical to the safety and tranquility of the Pacific Ocean through which passes, by both air and sea lanes, 40 percent of U.S. foreign merchandise trade. This proportion will grow in the years ahead. Further, the islands of the tropical Pacific offer unique qualities primarily as tourist destinations, are in particular instances the sources of important commodities, control vast exclusive economic zones with their present uses and future potential and are sometimes pools of low-cost but eager labor.

As a part of the territory integral to U.S. strategic and economic interest in both the short and long terms, the Pacific Ocean must be considered a special case. This means the United States must be willing to pay a small price to keep the Pacific Ocean peaceful and to help its small economies prosper. The capital needed to raise living standards in the Pacific Island economies will not come to the region on the basis of criteria that apply to large economies. However, this is not a reason not to invest in the region if one's focus is on the longer term. The more the United States gets connected to the larger Pacific Rim countries via trade and investment, the more important it becomes to keep the Pacific Ocean economies prosperous and secure.

Self-sufficiency is not a practical goal for the majority of these economies. Instead, less spectacular but realizable goals are increased local productive capacity and self-reliance supported by direct easy access to large markets both for selling and for recruiting capital and other resources. Forward-looking programs must take into account the rapid population growth rates in the Pacific Ocean which are among the world's highest. The Pacific Island economies should aim at staying afloat financially, slowing their population growth rates so they can stabilize their living standards, and adjusting their communal structures to help make market mechanisms work. U.S. policy should actively encourage trade with and investment in the islands, both among those with which we have close ties historically and those in the South and Southwest Pacific, where some of the best investment opportunities are to be found.

We recommend that President Clinton elevate the Joint Commercial Commission into a new, formal regional economic cooperation program exclusively for the United States and the region's economies to expand American private sector interest in the region. This will require increased coordination and support of existing federal programs and resources that collectively make up the apparatus to support American economic interests in the region.

Pacific Island Fact Sheets

PACIFIC ISLAND FACT SHEET

U.S. DOLLAR-DENOMINATED ECONOMIES

(In Micronesia, except for American Samoa)	Population (1993 or later)	Land Area (square miles)	Notable Geographic Characteristics	Distance from (miles)	Currency
GUAM	153,700	212	One island. Major U.S. naval base and regional trans-shipment center at Apra Harbor. In hurricane path.	Agana: Honolulu 3,800 Tokyo 1,600	U.S. dollar
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI)	63,000	177	Saipan the largest island, Tinian and Rota next, 14 others in the chain. 125 miles north of Guam. U.S. territory closest to Asia.	Garapan, Saipan: Honolulu 3,700 Tokyo 1,500	U.S. dollar
FEDERATED STATES OF MICRONESIA (FSM)	109,200	270	607 islands and atolls, Pohnpei 130 square miles, other major islands Kosrae, Yap and Chuuk. The 4 FSM states span 1,700 miles from east to west.	Kolonia, Pohnpei: Honolulu 3,100 Hong Kong 3,100	U.S. dollar
REPUBLIC OF PALAU	16,900	170	343 islands, the main group encircled by a hundred mile reef. Babeldaob 136 square miles. 8 other inhabited islands. Rock Islands.	Koror: Honolulu 4,600 Tokyo 2,000 Hong Kong 1,700	U.S. dollar
REPUBLIC OF THE MARSHALL ISLANDS (RMI)	59,800	70	34 coral islands, 870 reefs, highest elevation 33 feet above sea level, average elevation 7 feet.	Majuro: Honolulu 2,300 Guam 1,800	U.S. dollar
AMERICAN SAMOA	58,900	77	5 islands, 2 atolls. Pago Pago Harbor. Home of newest U.S. national park. In hurricane path.	Pago Pago, Tuitila: Honolulu 2,600 Los Angeles 4,800	U.S. dollar
TOTAL/AVERAGE	461,500	976			

NON-DOLLAR ECONOMIES

(Papua New Guinea, Solomons, Vanuatu, New Caledonia and Fiji make up Melanesia. Nauru and parts of Kiribati are in Micronesia. The other islands in this group, with the Hawaiian islands and American Samoa, are Polynesia.)

FRENCH POLYNESIA	229,200	1,609	130 islands, mostly atolls in 5 archipelagoes. Tahiti the largest island, 400 miles square, maximum elevation 7,464 feet.	Papeete, Tahiti: Honolulu 2,700 Los Angeles 4,100 Paris 10,400 Tokyo 5,900	French Pacific franc (F CFP)
NEW CALEDONIA	196,800	7,376	Main island, Grande Terre 250 miles by 30 miles (larger than the Hawaiian Islands together), mostly mountainous. Several small islands.	Noumea: Honolulu 3,900 Paris 10,400 Brisbane 900	French Pacific franc
WALLIS AND FUTUNA	14,800	106	2 main islands, highest elevation 2,493 feet.	Wallis Island: Honolulu 2,700 Paris 10,000	French Pacific franc
PAPUA NEW GUINEA (PNG)	4,141,800	179,490	Eastern half of the island of New Guinea. Largest by far Pacific island-state land mass. Other main islands New Ireland, New Britain and Bouganville.	Port Moresby: Honolulu 4,300 Cape York, Australia 300 Tokyo 3,100 Hong Kong 3,100	Kina

SOURCES: Cartographic Division, National Geographic Society, “Islands of the Pacific,” map 1:18,000,000, Washington, DC, 1974; Central Intelligence

Major Languages	GDP/GNP (U.S.$ million current)	Per Capita GDP/GNP (U.S.$)	Major Income Sources	Political Status	Major Sources of External Investment	Major Sources of Future Income
English, Chamorro, also Tagalog, Japanese	3,128.0	20,351	Tourism, military, trade and services	U.S. territory since 1898. Guam Organic Act of 1950 conferred U.S. citizenship. Some push for common-wealth status.	U.S., Japan, Korea	Tourism, services
English, Chamorro, Carolinian	550.2	8,733	Tourism, garment manufacturing, trade and services	After WWI under Japanese mandate. In 1947 became part of U.S. Trust Territory of the Pacific. Since 1978 a Commonwealth of the U.S.. Islanders are U.S. citizens.	Japan, Korea, Hong Kong, U.S.	Tourism, services
English, 8 major local languages	203.1	1,860	U.S. payments, government services, fisheries, tourism	After WWI under Japanese mandate. In 1947 became part of U.S. Trust Territory. Became sovereign in 1979. In compact of free associa-tion with U.S. as of 1986. Compact ends 2001.	U.S., Japan	Compact status un-certain as of 2001. Fisheries development, tourism
English, Palauan, Sonsorolese-Tobian	98.2	5,813	U.S. Compact payments, tourism	After WWI under Japanese mandate. In 1947 became part of U.S. Trust Territory. Became sovereign in 1994, in compact of free associa-tion as of 1994. Compact ends 2044.	Japan, U.S.	Compact money, tourism
English, Marshallese dialects	95.6	1,598	U.S. payments, Kwajalein Missile Range, govern-ment services, copra, fisheries	After WWI under Japanese mandate. In 1947 became part of U.S. Trust Territory. Became sovereign in 1979. In compact of free associa-tion since 1986.	U.S., Japan	U.S. military. Compact status un-certain as of 2001. Fisheries.
English, Samoan	253.0	4,295	Tuna canneries, government services, remit-tances from Samoans overseas	U.S. territory since 1899. Samoans are U.S. nationals.	U.S.	Canneries, remittances, U.S. entitlements
	4,328.1	9,378				

French, Tahitian	3,418.3	14,914	Payments from Metropolitan France, tourism, Tahitian pearls	French controlled from the 19th century. Overseas territory of France since 1957. Active independence movement.	Metropolitan France	French transfers, tourism, pearls
French, 30 Kanak dialects	3,017.0	15,330	Payments from Metropolitan France, nickel, agriculture and ranching, tourism, aquaculture	1853 became a French possession. Overseas territory of France since 1946. Relation to France under review.	Metropolitan France	French transfers, nickel, tourism agriculture, aquaculture
French, East Uvean, East Futunan	25.0	1,689	French transfer payments, trochus shells	French controlled from the 19th century. Overseas territory of France since 1961.	Metropolitan France	French transfers
English, Melanesian Pidgin, Hiri Motu, hundreds of dialects	4,600.0	1,111	Minerals, oil and gas, forestry, agriculture, tourism	Under Australian & German control before WWI. An Australian trust territory after WWII. Self-governing within the British Commonwealth since 1975. Strong separatist movement in Bouganville.	Australia, UK	Minerals, oil, timber, fisheries, tourism

David Stanley, *South Pacific Handbook,* 5th Edition, Chico, California, 1993; State of Hawaii Department of Business and Economic Development, *Data*

PACIFIC ISLAND FACT SHEET *(continued)*

	Population (1993 or later)	Land Area (square miles)	Notable Geographic Characteristics	Distance from (miles)	Currency
COOK ISLANDS	19,600	92	15 widely dispersed islands including volcanic peaks and atolls. Rarotonga the largest island 26 miles square. In hurricane path.	Rarotonga: Honolulu 3,000 Wellington 2,000	New Zealand dollar
WESTERN SAMOA	170,000	1,158	4 inhabited islands, 5 uninhabited. Highest point 6,100 feet, Mt. Silisili on Savai'i. In hurricane path.	Apia: Honolulu 2,600 Suva 700 Brisbane 2,500	Tala
FIJI	800,500	7,055	320 islands. Viti Levu 4,000 miles square, Vanua Levu 2,100 miles square. Major islands are mountainous and forested to windward.	Suva: Honolulu 3,100 Sydney 2,000 Tokyo 4,500	Fiji dollar
KIRIBATI	82,400	266	33 islands scattered 2,400 miles east to west, 1,300 miles north to south. Almost entirely low-lying atolls, Christmas Island the largest.	Tarawa: Honolulu 1,300 Tokyo 3,900	Australian dollar
SOLOMON ISLANDS	395,200	11,197	850 mile long double island chain. 6 mountainous main islands, Guadalcanal 2080 miles square.	Honiara, Guadalcanal: Honolulu 3,960 Port Moresby 900	Solomon Island dollar
TONGA	99,000	386	Some 150 coral atolls, 36 permanently inhabited.	Nukualofa: Honolulu 3,100 Brisbane 2,000	Pa'anga
VANUATU	173,900	4,707	80 scattered islands, several active volcanoes. Largest island Espiritu Santo 1,500 miles square, highest point 6,158 feet.	Port Vila, Efate: Honolulu 3,500 Tokyo 4,100	Vatu
NAURU	11,200	8	A single island with a 100 foot high central plateau of now nearly exhausted phos-phate-bearing rock.	Nauru: Honolulu 2,800 Banaba, Kiribati 200	Australian dollar
NIUE	2,500	101	Coral island rising 65 feet from the ocean and another 130 feet to a central plateau.	Alofi: Wellington 1,800 Suva 800	New Zealand dollar
TOKELAU	1,800	4	3 atolls with islets 10 to 16 feet above sea level. In hurricane path.	Nukunonu: Honolulu 2,300 Wellington 3,800	New Zealand dollar
TUVALU	10,200	10	5 atolls, 4 coral islands, maximum elevation 16 feet above sea level.	Funafuti: Suva 700 Sydney 2,500	Australian dollar
TOTAL/AVERAGE	6,348,900	213,565			
GRAND TOTAL/AVERAGE	6,810,400	214,541			
HAWAII	1,186,000	6,423	4 main islands. Island of Hawaii 4,028 miles square, highest point of Mauna Kea 13,796 feet. Mauna Loa and Kilauea on Hawaii both active volcanoes. Maui 727 miles square, Oahu 597 (Waikiki), Kauai 552. In hurricane path.	Honolulu: San Francisco 2,400 Los Angeles 2,600 Washington 4,800 Tokyo 2,500	U.S. dollar

SOURCES: Cartographic Division, National Geographic Society, "Islands of the Pacific," map 1:18,000,000, Washington, DC, 1974; Central Intelligence Agency, *The World Factbook,* 1994; Norman and Ngaire Douglas, editors, *Pacific Islands Yearbook,* 17th edition, Suva, 1994; Europa, *The Far East and Australia,* 1994; Gary L. Fitzpatrick and Marilyn J. Medlin, *Direct-line Distances, International Edition,* New Jersey, 1986; International Monetary Fund, *International Financial Statistics,* June 1996; David Stanley, *Micronesia Handbook,* Chico, California, 1989;

Major Languages	GDP/GNP (U.S.$ million current)	Per Capita GDP/GNP (U.S.$)	Major Income Sources	Political Status	Major Sources of External Investment	Major Sources of Future Income
English, Polynesian dialects	50.9	2,596	Government aid, services, tourism	Self-governing since 1965 in association with New Zealand. Cook Islanders are citizens of both Cook Islands and New Zealand.	New Zealand	Tourism
English, Samoan	170.0	1,000	Agriculture, remittances from abroad, tourism, manufacturing	Under German control before WWI, New Zealand after. New Zealand Trusteeship after WWII. Independent since 1962.	New Zealand, Japan	Agriculture, tourism, light manufac-turing
English, Fiji, Fiji Hindi	1,801.1	2,250	Sugar and other agriculture, tourism, forestry, fishing, mining, garment industry	Annexed by Great Britain in 1919. A republic within the British Commonwealth since 1979.	Australia, New Zealand, EU, Japan	Agriculture, tourism, mining, light manufac-turing
English, Micronesian	54.6	662	Agriculture (copra), remittances, aid	Annexed by Britain in 1919. A republic within the British Commonwealth since 1979.	NA	Fisheries development
English, pidgin English, more than 80 vernaculars	208.9	529	Agriculture, timber sales, fishing and fish canneries, aid	British protectorate as of 1873. Politically independent within the Commonwealth since 1978.	Australia, Japan	Agriculture, fisheries, tourism
Tongan	124.9	1,262	Agriculture, tourism	British protectorate as of 1900. Independent monarchy within the Commonwealth since 1970.	NA	Tourism, agriculture
French, English, Beshlama	187.4	1,078	Agriculture and ranching, tour-ism, Offshore Finance Center, services	Anglo-French New Hebrides Condominium in 1906. Republic of Vanuatu within the British Commonwealth established in 1980.	Australia, Japan	Tourism, agriculture
English, Nauruan	80.7	7,205	Phosphates and investments from phosphates	From 1919 administered by Australia. Became an independent republic in 1967.	NA	Investments from phosphate
English, Niuean	7.1	2,825	Subsistence activity, government aid	Self-governing since 1974 in free association with New Zealand.	NA	Tourism
English, Tokelauan	1.2	667	Subsistence activity, government aid	Non-self-governing territory administered by New Zealand beginning 1925.	NA	Subsistence activities, government aid
English, Tuvaluan	3.8	373	Subsistence activity government aid	Independent state within British Commonwealth since 1978.	NA	Subsistence activities, government aid
	13,750.9	2,166				
	18,079.0	2,655				
English, Hawaiian	32,724	27,592	Tourism, services, trade, government	Taken as a U.S. territory in 1898, became a U.S. state in 1959.	U.S., Japan, Australia	Tourism, defense, services, trade, government

David Stanley, *South Pacific Handbook,* 5th Edition, Chico, California, 1993; State of Hawaii Department of Business and Economic Development, *Data Book 1995,* Honolulu, 1996; Peter W. Thomson, *Trade and Investment in the South Pacific Islands,* Honolulu, 1989; World Bank, *World Development Report,* 1996; various Bank of Hawaii economic reports, 1992–96, and other sources.

Dissent

Statement of Dissent by Commissioners Morton Bahr, Kenneth Lewis, and Ron Sims from the Report of the Commission on U.S.-Pacific Trade and Investment Policy

This nation has reached a critical juncture in the formation of its thinking and policy regarding trade and investment and the time has come for a fundamental reassessment of the goals and objectives of U.S. policy and of the strategies and tactics used to achieve them. The problems that have created this crisis are particularly acute in Asia, but they are common to the whole set of U.S. trade and investment relationships, including our participation in the WTO and numerous other trading arrangements. We were not able to persuade a majority of the Commission of this view. For the reasons presented below, we are compelled to disagree with the report and many of its recommendations.

While the Commission report acknowledges the challenges posed by the trade and investment barriers and by the government interventions in private markets that are rife throughout the Asia Pacific region, the findings and policies recommended simply do not respond to these problems in a meaningful or useful way.

We have a number of specific objections to the structure, content, and language of the report that we have expressed throughout the meeting and drafting process for this Commission. In the first section of this statement, we present a synthesis of our objections. In the second section, we present an alternative set of five recommendations that we believe will improve U.S. trade and investment with Asia. We conclude with a set of specific comments on the ten recommendations presented in the majority report.

The Basis of Our Dissent

The Commission report's conclusions are out of touch with the economic concerns of the majority of the American public. By and large, the recommendations focus narrowly on the interests of U.S. investors, not U.S. workers. Thus, the report fails to fulfill the President's mandate to recommend policies that would increase U.S. access to Asian markets "in such a way that a maximum number of high-wage jobs are created and maintained in the United States."

There are five major areas in which the report is deficient. First, instead of defining the specific national interest in expanding trade with the Asia Pacific nations, it asserts a series of platitudes about the virtues of free trade. Second, the report fails to adequately address the causes or consequences of the United States' massive structural trade deficits with Asia. Third, the report simply assumes that additional foreign direct investment in Asia will generate substantial benefits for U.S. workers and companies, without seriously examining the costs, benefits, or problems associated with such investments. Fourth, while the report recognizes the importance of including labor, human rights, and environmental standards in future trade agreements, it does not go far enough on these issues. Finally, rather than a clear strategy that flows from a sensible analysis of the economic relationship between the U.S. and the other Pacific nations, the report offers a list of misguided proposals which give little hope for improving the economic conditions of working Americans through trade.

As written, the report could have some negative unintended consequences. By treating the serious issue of the impact of Asia Pacific trade and investment on American living standards carelessly, the report may well reinforce the widely held perception that the country's political and business leaders care much more about the opportunities for multinational investors than they do about the economic security of Americans struggling to make ends meet. The report could end up strengthening the very forces of protectionism that the majority of the Commission so fears.

We will address each of these issues in turn, before turning to our policy recommendations.

The National Interest

Trade is not a goal in and of itself. It is a tool of economic development. It is sometimes a "win-win" proposition and sometimes a "win-lose" proposition. And there are even times when it is a "lose-lose" proposition. Winners and losers in trade are not just nations as a whole, but various groups—investors, workers, industries, regions, etc.—within nations. The assertion that "trade is good for everyone" is simply not true—even by the standards of conventional economic theory. We do not endorse the proposition that a "win-lose" situation is acceptable when the United States is the loser, as some in the Administration contend.

Trade policy and trade activity must therefore be measured against national economic objectives. The most important of these are the generation of jobs and rising incomes for working people. Other reasonable objectives include corporate profits, capital accumulation for domestic reinvestment, access to technology and industrial inputs, the maintenance of reasonable levels of domestic price competition, and environmentally sustainable growth.

Access to cheaper imports can raise the real income of consumers and improve U.S. competitiveness, but these gains must be balanced against the economic costs of adjustment and the effects of trade on the level and distribution of wages. Income and adjustment cost issues are virtually ignored in the Commission's majority report.

The existence of net trade deficits with Asia Pacific nations suggests that, as currently structured, current trade and investment relationships are harming rather than helping the goal of full employment at decent wages. Massive and continuing trade deficits matter. First, when an economy is operating below full employment—as the U.S. economy usually is—such trade deficits cost jobs. Second, such trade deficits exacerbate the normal dislocation of workers (and thus families and communities) that occurs in a market economy. Third, such trade deficits with nations whose governments keep wages lower than justified by productivity levels inevitably lower wages in the importing country. Countries that repress labor unions, exploit children, and compete with prison labor are not practicing fair trade.

By ducking the issue that trade liberalization, particularly with fast-growing, low-wage Asian countries (such as China, in particular), has had negative, regressive distributional consequences for American incomes, the report ignores the central political issue regarding our current trading relationship with Asia.

Causes and Consequences of Trade Deficits

To acknowledge that trade deficits matter is not to argue that every bilateral trade relationship must always be in balance. But persistent and growing bilateral deficits do indicate the existence of structural problems—hidden or overt trade barriers, managed and chronically undervalued currencies, or other distortions to free trade. Since the Commission is charged with, among other things, identifying trade impediments, it is especially peculiar that the report pays so little attention to trade balances. According to the Commission's figures, the U.S. trade deficit with ten Asia Pacific countries (Japan, South Korea, Hong Kong, Taiwan, Singapore, the Philippines, Malaysia, Indonesia, Thailand, and China) will grow by an additional 15% by the year 2000, reaching $138 billion, as shown in Table 1.[1] It is estimated that in the years 1995 through 2000 the cumulative, combined trade deficit of the U.S. with these countries will exceed $750 billion. Such trade deficits are harmful to the American economy and are unsustainable in the long run (See Thurow, 1996).[2]

Table 1
U.S. Trade with Asia, 1995 to 2000

	1995	1996	1997	1998	1999	2000
	Actual	**Forecasts:**				
Exports	174.2	196.2	213.6	236.2	258.5	282.4
Imports	294.3	319.6	345.6	369.7	395.8	420.4
Trade Balance	(120.1)	(123.4)	(132.0)	(133.4)	(137.3)	(138.0)

Source: Calculated from DRI/McGraw Hill World Trade Report (3rd quarter 1996)

[1] Note that the forecasts shown in Table 1 are based on highly optimistic estimates of export growth to the countries in this study. For example, in 1996, exports were forecast to grow by 12.6%, but actually increased by only 2.9%. Imports were forecast to grow at 8.6%, but actually increased 5.6%. Thus imports grew faster than exports in fact, while exports were forecast to grow faster than imports in the DRI/McGraw Hill model used by the Commission.

[2] Thurow, Lester, The Future of Capitalism: How Today's Economic Forces Shape Tomorrow's World, (William Morrow & Co., 1996), p. 17.

The report states uncritically that, "The opening of markets creates better jobs for U.S. workers." This is often true. But it is also often true that the loss of markets at home to imported goods destroys American jobs. The question is: What is the net balance?

The answer is shocking: Between 1979 and 1994 twice as many high-paying jobs in the U.S. economy have been lost to imports as have been gained from exports. Under present circumstances, lopsided and unreciprocal trade (accompanied by growing deficits) is displacing more jobs than it is creating. In response to this job loss, the report cites Commerce Department figures that the average export job pays 20% more than other non-farm, private-sector jobs. But this statistic is based on a misleading comparison between manufacturing jobs and the rest of the economy (including low-paid service and retail jobs). When all jobs gained through exports, including those in agriculture and services, are compared to jobs lost to imports (which are also heavily concentrated in manufacturing), the so-called export premium virtually disappears, rendering any claim of highly paid export job creation invalid. The Commission notes that "[b]y the end of 1996, U.S. exports of goods and services supported an estimated 11.3 million jobs." However, it fails to point out that imports eliminated an even larger 14.8 million jobs or job opportunities, for a net loss of 3.5 million jobs.[3]

It is true that consumers benefit from cheaper goods. But in a modern society, living standards ultimately depend on one's ability to earn a paycheck. Experience also shows that the benefits of cheap overseas production are often not passed along to consumers, but are absorbed by retailers and wholesalers. The question is, are we losing good-paying manufacturing jobs to imports because we are locked into an unfair trading and investment relationship with the Asia Pacific region countries?

The job-destroying potential of imports is widely understood as common sense by the general public, and increasingly admitted by even ardent free trade scholars. Thus, in a recent article in the *Brookings Papers on Economic Activity*,[4] Harvard University economists Jeff Sachs and Howard Shatz report their findings that the increase in net imports (exports minus imports) can account for about 39% of the loss in manufacturing jobs between 1978 and 1990. This comes to about 1.2 million jobs, most of them lost to trade with developing countries. And there is an emerging consensus in the economic profession that imports from low-wage nations are an important factor in the growing inequality of earnings—with estimates ranging from ten to fifty percent of the problem. Moreover, none of these studies take into account the impact of threats by employers to move overseas (which is more credible the larger that trade looms as a share of the economy) in order to force American workers to take lower wages and benefits.

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[3] These figures use the multipliers implied in the export-jobs figure quoted in the majority report, using 1996 total U.S. exports of $611.7 billion (on a balance of payments basis, as reported by the U.S. Department of Commerce). The same multiplier is applied to 1996 total imports, which were $799.3 billion.

The most recent report from the Commerce Department's chief economist (June 21, 1996, preliminary data release, "U.S. Jobs Supported by Exports of Goods and Services") suggests that a multiplier for goods of approximately 14,000 jobs per billion would be more appropriate than that used by the Commission (18,473 jobs per billion, based on the calculations in the preceding paragraph). Using the smaller multiplier yields job totals of 8.6 million for exports and 11.2 million for imports, for a net loss of 2.6 million jobs.

[4] Sachs, Jeff and Shatz, Howard, "Trade and Jobs in U.S. Manufacturing," Brookings Papers on Economic Activity, Vol 1., pp. 1-84 (Washington, D.C.: Brookings Institution, 1994).

The Benefits and Costs of Foreign Direct Investment in Asia

The report fails to acknowledge that most U.S. investment in Asia (outside of Japan) is for the production of goods that are exported back to the United States, not for local market access (because consumers in these markets lack the wherewithal to purchase significant amounts of these products or the freedom to organize to increase their wages). Furthermore, conditions imposed on foreign direct investment in these markets often leads to the loss of U.S. jobs and critical technologies, which can **lower** incomes in the United States. Finally, many of the goods being exported to Asia are intermediate parts and inputs, which are used in U.S.-owned factories, and then **re-exported** back to the United States.[5]

U.S. firms such as General Motors, Motorola, Mattel, and Boeing have made massive investments in Asian countries. Some of these countries require that a majority of goods produced by foreign investors be exported. Exports back to the United States from these plants increase the trade deficit and eliminate jobs in the United States. The threat of moving plants to such locations is often used in contract negotiations here to extract wage and benefit concessions from U.S. workers.

Firms are also being enticed to invest in Asia in order to makes sales in these countries. Offsets—export sales agreements that require a firm to perform a certain amount of work in the purchasing country—have increased dramatically in recent years. Offsets have led to increased parts imports and a transfer of production to foreign markets, especially in Asia. These sales deals often include technology transfers as well, which require U.S. firms to share proprietary information with foreign firms and help them learn to use it. These "performance requirements" are increasingly common in defense and commercial aerospace production and in other high-tech industries. U.S. companies are being compelled to transfer technology to obtain current sales in these markets.

Because of more stringent performance requirements, and a general tendency to outsource production, almost 30% of the new Boeing 777 aircraft is composed of foreign-made parts and

[5] For example, Mataloni, Jr., Raymond J. and Mahnaz Fahim-Nader, "Operations of U.S. Multinational Companies: Preliminary Results from the 1994 Benchmark Survey," Survey of Current Business, December 1996, 11-37, report imports and exports from U.S. multinationals, to and from their foreign affiliates. A foreign affiliate is one in which the firm has direct investment which controls 10 percent or more of the voting securities of that affiliate. Table 19 reports U.S. exports to and imports from these foreign affiliates. These include:

($millions)

	Year	Exports to foreign affil.	Imports from foreign affil.	Trade balance with
Malaysia	1994	1,291	2,219	- 928
Philippines	1994	337	595	- 258
Singapore	1993	4,033	9,087	-5,054
China	1994	456	176	277
Total		6,114	12,077	-5,963

Note that imports from China may be artificially depressed because of requirements that exports be channeled through Chinese state trading companies. In addition, Chinese exports to the U.S. grew rapidly in 1995 and 1996, as did U.S. investment in China. 1994 data for Singapore were not available because of disclosure limitations.

components. China has been particularly aggressive in its pursuit of offsets. It has used its national airlines to entice Airbus and Boeing into a bidding war that will rapidly increase the loss of jobs and critical technologies. Boeing recently lost a competition with Airbus for a partnership to jointly design and produce a small (100-seat) plane in China. This consortium could be the next entrant in the world aircraft industry.

The terms of these bidding wars are not limited to jobs and technology transfers. U.S. firms in China, for example, have been asked to help China influence their own government's domestic trade and foreign policies. Last spring, Boeing held a board meeting in Beijing where it met with Chinese Premier Li Peng. Afterwards, Boeing CEO Philip Condit endorsed the Premier's views on what U.S. trade policy to China ought to be.

Offsets are hollowing out U.S. supplier industries. Imports of parts are rising rapidly and are a growing share of commercial aircraft production. If past trends continue, the import share of domestic output could rise from 11% in 1994 to 14% in the year 2000. Up to 25,000 jobs in aircraft parts could be eliminated if these trends continue.

Exports of parts to U.S. factories in Asia are often used to supply U.S. plants making the same products. McDonnell Douglas now ships parts, rather than assembled aircraft, to China. Some of the planes made in China are now exported back to the United States. Thus, looking at the growth of exports only provides a distorted view of the effects of trade on the domestic economy and leads to overestimates of the number of jobs created through reduced trade barriers. Parts shipped to a McDonnell plant in Shanghai, which used to go to McDonnell's plant in Long Beach, do not create new jobs in this country.

The Commission report assumes that expanding foreign direct investment in Asia generates many benefits, including growing exports. The effects of investment on trade, employment, and wages are more complex, and more mixed, than portrayed in the report. The report does not look at the total impact of such investments on the U.S. manufacturing job base.

Labor Rights, Human Rights, and Environmental Standards in Trade Policy

Protecting workers' rights is both a moral and an economic imperative. The U.S. is best served by a comprehensive trade policy that seeks to develop common norms around all elements of the production process, from accessing distribution channels to intellectual property rights to basic labor market standards. Foreign firms should not be allowed to gain competitive advantage by flouting international labor standards and sanctions must be vigorously pursued against firms that do so.

In addition, our approach to workers' rights must be based on the understanding that promoting labor standards with our trading partners helps to develop markets for U.S. companies. Higher standards of living which enable foreign workers to consume U.S. goods develop more quickly and more broadly when foreign workers can freely join trade unions, can participate in collective bargaining, and are protected by adequately enforced labor laws.

To its credit, the Commission has called for several unilateral and multilateral measures to monitor and promote labor rights. While pursuing workers' rights in multilateral fora is one appropriate strategy, we must not abandon a bilateral strategy. The majority report is silent on the issue of bilateral strategies for promoting labor rights and environmental standards. Workers' rights must be a principal trade negotiating objective and we must insist in all trade negotiations that worker rights provisions are included. Those provisions include the prohibition of forced and prison labor, guarantees of freedom of association, the right to organize and bargain collectively, and nondiscrimination in employment. Rules should be established to insure a safe and healthy workplace, prevent child labor, and establish appropriate standards concerning hours of work. We must fully utilize and enforce worker rights provisions in existing law, including Section 301 and the GSP and we should continue, as the Commission recommends, to seek to begin an examination of worker rights through the WTO.

Just as trade and economic growth do not automatically lead to higher wages and improved working conditions, freer trade does not reflexively lead to a freer society and a greater respect for human rights. The hope that the mere presence of U.S. companies in Asian nations will cause political repression and human rights abuses to wither away is not realistic. However, as with workers' rights, pursuing an internationally recognized human rights agenda underscores the existing overlap between trade and human rights policies. Promoting the rule of law, transparency of procedures, accountability of public officials, freedom of expression, and similar policies aids both U.S. companies trying to operate in a particular region and indigenous campaigns for human rights. Rather than give in to political posturing that charges the United States with imposing its own values on other countries, the U.S. should promote a role for Asian Non-Governmental Organizations (NGOs) in various trade groups, to make clear that human rights policies reflect domestic constituencies in Asian countries. Other options include supporting cross-border protections of human rights, such as when Asian governments protest mistreatment or detention of their citizens who are guest workers in other countries, and working with governments, such as South Korea, the Philippines, and Japan, that accept a more universalist interpretation of human rights as an issue transcending international boundaries.

The Majority's Contradictory Recommendations

The report's recommendations section contains at least two major logical contradictions. First, it tells the reader that the nations of the Pacific are steadily embracing free trade, that the progress to free trade has become stalled despite the openness of the U.S. markets, and that the way to get it moving again is to offer even more trade concessions to nations that have not kept their promises in the past. This is simply not credible.

Second, the report recommends that the U.S. government encourage even more American business investment in Pacific nations. If, as the report asserts, the U.S. is at a fundamental disadvantage because its low savings rates retards domestic investment, it is nonsensical for the U.S. to be encouraging even more diversion of investment out of this country. In addition, when investment does occur, mechanisms are needed to discourage U.S. firms and foreign governments from using such overseas facilities as platforms for outsourcing U.S. production or for re-exporting goods produced in such plants back to the U.S.

Instead, the report should make it clear that if these markets are ever going to be opened to U.S. goods, the U.S. will have to use every bit of leverage it has, from sanctions that close our markets to Chinese goods to withholding WTO status for China until it adopts fair trade practices required of other WTO nations. It is naive to think that a nation like China is going to voluntarily dismantle its state-operated mercantilist and military-driven industrial policies out of gratitude for being allowed even more unrestricted access to the U.S. market and the enhanced status and protection of WTO membership.

Our Recommendations

The time has arrived for a fundamental shift in emphasis and strategy in our approach to trade and investment. Based on our analysis of the problems in the world trading system in general, and in U.S.-Asia Pacific trade and investment relations in particular, our policies must move from an emphasis on multilateral agreements (especially through the WTO) to negotiations with individual countries and groups of countries. The latter will vary depending on the trade issue or problem that must be addressed. In addition, policy and strategy must shift from an emphasis on rules, and leveling the playing field, to a consideration of outcomes and results. With this general perspective in mind, we have developed five specific, positive recommendations for U.S. trade and investment policy.

Recommendation 1: The U.S. should identify the goals of trade and investment policies and undertake a strategic reassessment of the relationship of these goals to existing U.S. and international trade laws and practices.

The U.S. should adopt S. 465, the End the Trade Deficit Act.

In 1996, Senators Dorgan and Byrd introduced S. 1978, the End the Trade Deficit Act. On March 18, 1997, these two Senators, along with Senator Sarbanes, reintroduced that bill now numbered S. 465. This bill would establish a commission to develop plans to end the trade deficit in the next ten years and establish a new, more competitive trade policy for the next century. In introducing this bill in 1996, Senator Dorgan noted that many economists had predicted that the trade deficit would fall as the federal budget deficit declined between 1992 and 1996. Yet the trade deficit has expanded rapidly and reached a record level in 1996. The Senator cited estimates from Data Resources, Inc., that the U.S. trade deficit will nearly double, to $331 billion, by the year 2010.

The commission would examine five broad areas, including:

1. The process through which the United States establishes and administers its fundamental trade policies and objectives;

2. The causes, consequences, and persistence of the United States' overall trade deficit, and of specific bilateral deficits;

3. The relationship of the trade deficit to the competitive and comparative advantages of the United States;

4. The relationship between investment flows (inward and outward) and the trade deficit; and

5. The identification and evaluation of policies and alternative strategies that the United States can use to systematically reduce the trade deficit and improve the well-being of its people.

This bill recognizes the conflicts and challenges which are discussed above. It is appropriate to address these problems in a global reassessment of the type recommended by Senators Dorgan, Byrd, and Sarbanes.

Recommendation 2: The U.S. should intensify its use of bilateral and unilateral trade policies in order to correct the structural problems in our trade and investment relationships in Asia, and actively seek out new fora for addressing these problems.

The U.S. should step up its self-enforcement efforts in specific cases where countries are unfairly restricting sales of imports from the U.S. through formal or informal policies, or through toleration of collusion and other forms of non-competitive behavior by their own domestic firms and groups of firms. These policies should include aggressive enforcement of U.S. "301" and "Super 301" trade actions.

The U.S. should also explore new options for restraining unfair trade practices. For example, as noted above, China has been particularly aggressive in its pursuit of "offset agreements" in commercial aircraft and a wide range of other high-technology industries, despite the fact that it has specifically promised not to engage in such actions in formal "Memoranda of Understanding" with the U.S. government. One way to respond to these infractions is to reach an agreement with the European Union that would prohibit private firms from offering offset agreements in exchange for sales. This policy could be tested first in the aircraft industry (where only U.S. and European firms compete), and then expanded to other industries and regions.

Recommendation 3: The U.S. should make the achievement of new mechanisms for the inclusion of enforceable labor rights and environmental standards in the WTO its number one priority in this organization. The U.S. should also place a high priority on the inclusion of such rights and standards in bilateral and regional trade agreements.

As recognized in the Commission's report, labor issues are "important economic issues and relate quite properly to trade." Indeed, there is every reason to argue that trade between countries is unfair when labor rights in one country are repressed, children are enslaved, or prisoners are used to produce products for export. Citizens groups and NGOs have begun to take action against the most abusive forms of such trade, but these measures can never substitute for formal government policies to discourage such abuses in the strongest terms possible. There is no reason why labor rights or environmental standards should not be enforceable with trade sanctions, when restrictions of investor rights (e.g., performance requirements) are granted such protection.

While it may be difficult to incorporate such measures into the WTO rapidly, great progress along these lines can be made in regional and bilateral trading arrangements, in which the U.S. possesses much more leverage. Progress and experience with labor rights and environmental standards in local and regional agreements can also pave the way for more extensive multilateral agreements in the future. Efforts to keep these issues out of these agreements will only delay their incorporation into more inclusive institutions.

The U.S. must demonstrate that it is willing to make sacrifices in order to obtain progress on labor rights and environmental standards. It has been willing in the past to make trade concessions (e.g., the elimination of the Multi-Fibre Arrangement in the Uruguay Round) in order to obtain further protection for intellectual property and investor rights. In particular, it may be useful to consider linking offers of expanded development aid or debt relief to the completion of agreements on these issues.

Recommendation 4: The U.S. should substantially increase its levels of public investment in education, infrastructure, and research and development.

The U.S. has been financing tax and budget cuts by consuming its seed-corn for more than two decades. Real public spending on education, infrastructure, and R&D has fallen steadily, as a share of output (gross domestic product), throughout this period. We agree that increased investment is needed to enhance U.S. productivity and competitiveness. However, numerous studies by private economists[6] have shown that it is extremely difficult to increase savings or investment in the private sector through changes in public policy, including such measures as tax cuts, capital gains tax preferences, and changes in the tax structure (e.g., individual retirement accounts). None of these measures has been shown to have any significant effect on private savings. Increases in public savings and investment are the most feasible and successful means available for increasing the overall level of national savings and investment in the U.S.

Recommendation 5: The U.S. should continue to oppose China's membership in the WTO until it has completed those reforms of its economy needed to achieve compliance with all existing international agreements and WTO disciplines.

We are opposed to the admission of China to the WTO until China assumes and abides by the same obligations required of other WTO nations. Our mushrooming trade deficit with China, the pervasive role of the state and state-guided yet nominally privatized industries, and the fundamental conflicts between our two economic systems are the clearest possible example of a

[6] There is a large literature on these questions. Charles L. Schultze, Memos to the President: A Guide Through Macroeconomics for the Busy Policymaker (Washington, D.C., The Brookings Institution, 1992) provides a useful synthesis and analysis of the technical literature. Schultze, a former chair of the Council of Economic Advisors, concludes that "tax devices are not likely to generate a large increase in [private] national savings" (p. 262). He also argues that the "skeptics are more likely to prove correct" on proposals for cuts in capital gains taxes (p. 282).

case where the United States must retain all possible leverage for future bargaining. We must not repeat the mistakes made in entering into the WTO treaty, which greatly reduced our ability to take unilateral action against egregious violators of international trade norms.

There is no good reason to rush China into the WTO, and every reason to wait until it reforms its trade, investment, and exchange rate practices. Our imports from China are four times as large as our exports to China, giving us great leverage in trade disputes. Furthermore, many of our exports to China supply U.S. plants making products for re-export. It would not be in China's self-interest to restrict imports of intermediate products that will ultimately contribute to its trade balance. Finally, some have suggested that we use WTO membership as a carrot to extract concessions from China regarding its treatment of Hong Kong when it returns to Chinese control later this year. In this regard, it is important to remember that China has violated international treaties, agreements, and obligations, including those involving offsets, copyrights, apparel, and even nuclear proliferation. Giving China what it wants, at this time, will only reduce our leverage.

The report fails to explain why 42% of China's exports went to the United States in 1993, while only 10% of their imports came from here, or why the United States has experienced a massively growing trade deficit with China while the European Union has maintained balanced trade with China. Part of the explanation is found in the ability of the EU governments to work in partnership with their own firms in negotiating with the Chinese government for market access, and in the EU's willingness to establish formal and informal limits on imports of Chinese products. The United States must recognize that China's dependence on exports to the U.S., which provided more than 10% of all growth in China's economy in 1994, is our source of greatest leverage in negotiations. We lose this leverage the moment China is admitted to the WTO and is granted permanent MFN status.

The majority report recommends immediate Chinese accession to the WTO if China provides a "substantial down payment" as a condition for accession and agrees to all WTO disciplines. The Commission recommends that the U.S. be flexible on the timetable for China to meet the WTO disciplines. It also recommends that a U.S. decision on granting permanent MFN status be deferred until after China joins the WTO, but is silent on the timing of MFN status. We are pleased that the majority would require a "substantial down payment" from China and believe that it indicates movement in the right direction. A down payment, however, is not sufficient; China must pay its whole bill. We would not offer China WTO membership or MFN status until after it has reformed its economy.

We have developed these recommendations to illustrate the kinds of approaches which we believe will improve U.S. trade and investment with the Asia Pacific region. In the following analysis, we provide detailed comments on the recommendations in the majority report.

Comments on Majority Recommendations

Majority Recommendation 1: China

This recommendation comes in three parts. The first element concerns efforts to integrate China into the global economy. We support the proposal to revive the U.S.-China Joint Committee on Commerce and Trade. This type of communication can facilitate adjustment, when combined with other policy measures. However, we are opposed to ending restrictions on aid to China from the U.S. Trade Development Agency and from OPIC. These and other forms of aid should be used to gain leverage in negotiations with the Chinese for improved market access and an end to discriminatory practices, such as offset requirements.

The second and third elements of this recommendation concern China's accession to the WTO and MFN treatment for China. However, the recommended strategy will not solve the problems described in the report. We are opposed to the admission of China at this time, as explained above in our recommendation 5.

Majority Recommendation 2: Japan

We oppose this entire section, which includes several broad recommendations, and then proposes a study of the feasibility of negotiating a "Comprehensive Market Agreement." For over 20 years the U.S. and Japan have been in conflict about Japan's structural trade surplus with the U.S. Only two measures have been shown to have any significant effect on this surplus: massive devaluation of the U.S. dollar (52% since 1980) and sectoral agreements with specific, explicit trade and market share targets.

However, Japan has grown increasingly resistant to sector-specific, managed trade agreements in the last few years, as its trade surplus has declined. In addition to giving in on targets, recent administrations have softened the terms of the agreements to measure sales by U.S. firms, rather than exports to Japan or improvements in the trade balance. As a result, sectoral agreements have become less effective in the 1990s. For example, despite several massive pacts in vehicles and parts that were negotiated by the Bush Administration (totaling $10 billion in targets), and a large overall decline of the U.S. dollar relative to the yen, the U.S. trade deficit with Japan in these sectors actually worsened by $5 billion between 1991 and 1994. As a result of the increase in the value of the dollar between mid-1996 and early 1997, Japanese vehicle exports have surged, and in January 1997 increased by 75%, relative to levels a year earlier.

We believe that the Administration must return to the successful policies and firm bargaining position of the mid-1980s, if we are to have any hope of correcting Japan's structural trade deficit. Beyond this, broader strategies may be required, such as invoking the GATT balance of payments exception (see Scott, 1996; Greider, 1997; Thurow, 1996).[7]

[7] Greider, William, One World, Ready or Not: The Manic Logic of Global Capitalism (New York: Simon & Schuster, 1997). Scott, Robert E., "Trade," in Reclaiming Prosperity: A Blueprint for Progressive Economic Reform, Todd Schafer and Jeff Faux, eds. (Armonk, NY: M.E. Sharpe, 1996), pp. 245-61. Thurow, ibid, n. 2.

Majority Recommendation 3: Fast Track and Economic Balance of Benefits Study

The majority report recommends broad, unconditional fast track authority for a period of at least four years. Over the past four years, the Administration has negotiated over 200 trade agreements. Despite these efforts, and a substantial decline in the U.S. budget deficit (which has been alleged to cause trade deficits), the U.S. trade deficit has mushroomed in this period. In addition, wage inequality has continued to increase in the U.S., and in many of our closest trading partners. These are symptoms of an approaching crisis in the world trading system regarding sustained, structural trade imbalances and the growing global costs of trade expansion and financial integration.

Given this global context, the U.S. needs time to assess the causes of our trade problems, and to analyze the successes and failures in the 200 agreements signed in the past four years. At most, fast track should be authorized for a short period, for specific purposes, with clear conditions reflecting the concerns of Congress and the public. In particular, given the growth of labor and environmental problems associated with globalization, any fast track authority should include provisions and an enforcement mechanism for addressing worker rights, labor standards, and environmental protection. These provisions must be part of the core agreement and subject to the same dispute settlement procedures available to other covered issues. These concerns must be given at least as much concern as investor and intellectual property rights, as suggested in our recommendation 3.

On this basis, fast track could be used to negotiate specific agreements with individual countries or regions, such as Chile or the Caribbean Basin Initiative countries. These measures could then become the model for incorporating such provisions into other trade agreements (including NAFTA), and ultimately the WTO.

The majority report also recommends that "balance of benefits studies" should be completed after major trade agreements are negotiated. This recommendation is sensible, as far as it goes. Better information could improve the quality of public debate on the merits of trade agreements. By emphasizing the "net" benefits, the Commission has recognized the importance of the adjustment costs that result from trade agreements. It would also be useful to support independent analysis, by several different groups, for especially important agreements such as the Uruguay Round implementing legislation.

Additionally, a more balanced evaluation could be obtained if reports were required at regular intervals (e.g., 3, 6, and 10 years) for each agreement. This will require much more data collection and analytical capability than is available at the U.S. International Trade Commission. These functions should be incorporated into a new, cabinet level international trade agency. While the need for such an agency, which was discussed during the WTO debates in the Congress, is beyond the scope of our recommendations, it is an issue that should be considered by a commission of the type discussed in our recommendation 1, above.

Majority Recommendation 4: Competition Policy

We are opposed to most of the recommendations in this section (other than annual reporting). The Commission essentially recommends that the U.S. attempt, through negotiations, to force other nations to adopt business and institutional structures similar to those in the U.S. This reflects, again, the belief that by encouraging our trading partners in Asia to pass laws and set up new bureaucracies and legal procedures, we can force them to have an open, competitive market like that of the United States. While this approach has had some success in Europe, it is simply wishful thinking in the case of Asia.

The fundamental differences in business practices, both between Asia and the United States and among the Asian countries themselves, which are well documented in the majority report, suggest that new approaches are needed. We believe that government-to-government, industry-specific negotiations, of the type which have been used most successfully with Japan, offer the best hope for reducing the structural trade imbalances which are discussed in this dissenting statement.

Majority Recommendation 5: Human Rights, Worker Rights, and the Environment

We support, with reservations, the Commission's recommendation on human rights. We are concerned because, while the Commission supports human rights in principle, in practice the support is devalued by the condition requiring the U.S. to work with Asia "in a manner balanced with U.S. commercial interests." We find this qualification curious. How are "commercial interests" to be defined? Are they profits, and patent and royalty income? Or are they U.S. jobs, wages, and the trade balance? How are tradeoffs among these objectives to be considered? The meaning of this recommendation is somewhat unclear.

We strongly endorse the majority recommendation on worker rights and labor standards. The Commission has done well in generating this recommendation, overcoming substantial internal opposition before it could agree on this general statement of support. In particular, we support two key provisions of the majority's recommendation: continued U.S. support for a WTO labor rights working group and annual reporting on working conditions abroad.

However, the recommendation should be stronger and more specific in at least three ways. First, trade agreements, including the WTO, should include provisions and enforcement mechanisms for addressing worker rights and labor standards. Second, these provisions must be part of the core agreement and subject to the same dispute settlement procedures available to other covered issues. Finally, these concerns must be given at least as much concern as investor and intellectual property rights, as suggested above. In addition, these measures must be incorporated into other existing bilateral and multilateral trade and investment agreements.

Environmental protection should also be incorporated into the core provisions of the WTO, in the ways discussed above. Again, the majority recommendation in this area does not go far enough.

Majority Recommendation 6: Foreign Direct Investment Liberalization

We support the Commission's recommendation opposing forced technology transfers.

We are opposed to the Multilateral Agreement on Investment because it will severely limit the ability of federal, state, and local governments in the U.S. to regulate the activities of foreign companies operating here, and to develop industrial policies in the future. Given the legalistic basis of our culture and governmental institutions, the U.S. places itself at a serious disadvantage vis-à-vis our trading partners in Europe, Japan, and elsewhere in Asia if we accede to this proposed agreement. It will allow others to achieve trade and competitiveness goals through formal and informal programs which we would be unable to match. For example, Europe effectively demands high local content and keeps out imports from Eastern Europe and Asia in a wide range of industries today, despite WTO prohibitions on quotas, voluntary restraint agreements, and investment performance requirements.

The U.S. should not unilaterally disarm itself of weapons and remedies that could be needed to resolve trade disputes in the future. New approaches are called for to analyze the costs and benefits of foreign investment and capital flows of all kinds. These should lead to new approaches and strategies for improving the performance of the global economy. Further study of these issues is required before policy recommendations can or should be developed in this area.

Majority Recommendation 7: Multilateral Solutions to Asia Trade and Investment Problems

We oppose this recommendation because it is confused and internally contradictory. The recommendation has three parts. The first recommends the use of WTO remedies to solve trade problems. The second declares that the fundamental structure of the WTO, and its two core principles of Most Favored Nation status and National Treatment, are insufficient to ensure equivalent access for U.S. firms in foreign markets. It then suggests that future trade agreements should be based on "mutuality and contestability."

The last point reflects the U.S. emphasis on reciprocity in trade negotiations, which resulted in the failure of the recent negotiations for a financial services agreement. In that case, other countries were unwilling to provide sufficient guarantees of market access to satisfy the U.S. industry and trade negotiators.

A fundamental problem with the U.S. approach is that it will never correct the trade imbalances discussed above. The U.S. had a services surplus of only $73 billion in 1996, versus a goods deficit (on a BOP basis) of $187 billion, and most of this services surplus was offset by net payments to foreign investors and other outflows on the current account. Our services exports were $224 billion, versus imports of $950 billion. Services will never catch up, and their production involves few jobs (especially of the high-wage variety), in any event.

New approaches are needed to correct the structural imbalances inherent in the WTO and current world trade patterns, as suggested above. It is not enough to demand reciprocity only in new agreements.

Majority Recommendation 8: APEC and Selective Free Trade Areas

The U.S. should re-examine the assumptions behind using APEC as the fulcrum for our trade policy in this region. The world economy is moving towards the creation of regional trade blocks that are based on geography and common interest. Europe has achieved much more successful and positive regional integration by helping neighboring countries to raise levels of economic development and political freedom before bringing them into the EU (e.g., Greece, Spain, and Portugal). In addition, it is not clear that the countries of APEC are willing to take meaningful steps to open their economies, or to use that organization for concrete trade or investment negotiations.

Regional trade agreements can be useful, but they must include the labor and environmental standards discussed above under our comments on majority recommendations 3 and 5. In addition, such agreements are more likely to work when based on proximity in terms of geography and development levels (e.g., U.S.-Canada).

Majority Recommendation 9: Exchange Rates

We support this recommendation.

Majority Recommendation 10: Greater Priority to Asia Pacific

We support some of the thinking behind this recommendation but believe that it is both premature and too narrowly focused. As written, it reflects the fundamental flaw in the Commission's analysis: the assumption that by simply expanding future exports to Asia, the U.S. will obtain the benefits envisioned in the President's charge to the Commission in Executive Order 12964 (see Annex B). This charge included creating and maintaining a "maximum number of high-wage jobs." It also required the Commission to use "realistic measurements of trade and investment activity in Asia and the Pacific, which consider all relevant factors, including the composition of trade and intracompany trade and investment patterns." Presumably, this analysis should have included the net effects of increasing exports on the trade balance, and problems associated with outsourcing production in low-wage, offshore locations by U.S. multinationals.

We have demonstrated, using the Commission's own forecasts, that the U.S. trade deficit with Asia is expected to grow, not decline, destroying, not creating, the high-wage jobs called for in the President's charge to the Commission. The sophisticated analysis called for in his executive order has not been developed in the majority report.

The Commission's final recommendation calls for a shift in priorities and resources from other areas of the world (and the federal budget) to promoting U.S. exports to and investments in Asia. While we agree that the growing importance to the U.S. economy of the Asia Pacific region merits some resources being devoted to enhancing U.S. exports to the region, it is premature to propose the substantial increase in resources that the Commission recommends, especially in an era of extreme budget tightening. A much more thorough, comprehensive, and sophisticated review of the costs, benefits, prospects, and risks of foreign trade and investment for the U.S. is required before judgements can be made about the allocation of scarce resources. We also note a crucial caveat to supporting export enhancement: U.S. government resources should not be used to support exports to the Asia Pacific region which are then re-exported back to the U.S.

Neither should government resources be used to promote U.S. investment in Asia Pacific countries until those countries eliminate performance requirements and without a deeper analysis of and careful response to the consequences of moving production overseas.

Annex A: Background on Commissioners

Kenneth D. Brody - Chairman

Mr. Brody is the Founding Partner of Winslow Partners LLC, a private equity investment firm and the Chairman of the Board of Directors and a founder of Chartwell Health Management Inc. From 1993 to early 1996, he served as President and Chairman of the Export-Import Bank of the United States (Ex-Im Bank). In this capacity, he guided the Clinton Administration in setting a new and aggressive national export strategy to help U.S. exporters become more competitive in the global marketplace. His activities at the Ex-Im Bank led to substantial involvement with many of the Asia Pacific countries. He also led the revitalization of the Ex-Im Bank into a customer-oriented, private sector-like financial institution.

Prior to his government service, Mr. Brody spent twenty years at Goldman, Sachs & Co. In addition to various investment banking assignments, he founded and headed the high-technology investment banking group, headed the real estate investment banking group, and co-headed the firm's long-term principal investing activities. He was a partner and a member of the firm's management committee.

Mr. Brody is a member of the Boards of Directors of Alex Brown Incorporated, Quest Diagnostics Incorporated (formerly known as Corning Clinical Laboratories Inc.), and Yurie Systems, Inc. Mr. Brody is also a member of the Boards of the American Red Cross and St. John's College and is a member of the Council on Foreign Relations. Mr. Brody received a Bachelor of Science in Electrical Engineering degree with high honors from the University of Maryland and a Master of Business Administration degree with high distinction from Harvard University. He lives in Washington D.C. with his wife and their two children.

Clyde V. Prestowitz, Jr. - Vice Chairman

Mr. Prestowitz is the founder and president of the Economic Strategy Institute (ESI), a non-profit research center specializing in international trade and competitiveness issues. Mr. Prestowitz brings to the Commission extensive expertise in trade issues and U.S.-Asia economic and business relations as the result of a career in international business and government. As a businessman he worked as Director of European operations for Scott Paper Company, Vice President-Japan for Egon Zehnder International, and Director of International Marketing for the American Can Company.

As a government official, Mr. Prestowitz served successively as Deputy Assistant Secretary of Commerce, Acting Assistant Secretary of Commerce, and Counselor to the Secretary of Commerce, from 1981- 1986. In this period, Mr. Prestowitz was actively engaged in high level trade negotiations with Japan, South Korea, and other Asian nations. After leaving government, Mr. Prestowitz became a senior associate at the Carnegie Endowment and a Fellow at the Woodrow Wilson International Center for Scholars, where he authored his best selling book on U.S.-Japan relations, *Trading Places*. Mr. Prestowitz is on the board of the Pacific Basin Economic Council where he serves as Vice Chairman. He has a B.A. degree with honors from Swathmore College where he was a McCabe Scholar, an M.A. in East-West Politics and Economics from the East-West Center and Keio University in Tokyo, and an MBA from the Wharton School of the University of Pennsylvania.

Morton Bahr

Mr. Bahr serves as President of the Communications Workers of America (CWA). Under Mr. Bahr's leadership, and through his emphasis on organizing workers in new industries and pursuing mergers with unions in related media fields, the CWA has grown to represent 600,000 members. In the course of establishing close relations with other unions in the Asia Pacific region, Mr Bahr has traveled extensively throughout Asia. He has addressed the Japanese Electrical Workers (Denki Roren). The CWA and the Japanese Telecommunications Workers (Zendentsu) have a mutual assistance agreement and have supported each other's efforts in dealing with multinational employers, and the CWA recently conducted a joint education conference on information technology with its counterpart union in the Philippines. President Bahr serves as Vice President of the world executive committee of the Postal, Telegraph and Telephone International, representing 4.5 million telecommunications and postal workers in 115 countries.

Jason S. Berman

Mr. Berman serves as chairman and chief executive officer of the Recording Industry Association of America (RIAA), a trade organization whose member companies create, manufacture and/or distribute approximately 90 percent of all legitimate sound recordings produced and sold in the United States and 60 percent worldwide.

Under Mr. Berman's guidance, the RIAA continues to make substantial progress opening markets and reducing record piracy in Asia. He is a member of the board of directors of the International Federation of Phonographic Industries, and is actively involved with the International Intellectual Property Alliance. He also serves as a member of the U.S. Trade Representative's Investment and Service Policy Advisory Committee.

On behalf of the United States recording industry, Mr. Berman has actively participated in the negotiations with China on intellectual property protection and was part of the official U.S. delegation at the signing of the February 1995 agreement. He has also been a participant in negotiations with Japan on record rental and its TRIPS implementation obligations on retroactivity, and with Thailand and Hong Kong on their copyright laws and enforcement.

Mr. Berman's leadership has led to the passage of the Audio Home Recording Act of 1992, the Digital Performance Right in Sound Recordings Act of 1995, the creation of the Special 301 section of the U.S. trade law, and the strengthening of international copyright law.

Lawrence M. Johnson

Mr. Johnson has been a lifetime resident of the Asia Pacific region. Based in Hawaii and Chairman and CEO of one of the region's largest financial institutions he has developed an unusual appreciation for the opportunities that exist in Asia. His company, Bancorp Hawaii, Inc., and its principal subsidiary, Bank of Hawaii, has a business presence in twenty one Asia Pacific countries including Japan, South Korea, Hong Kong, Taiwan, Singapore, and the Philippines. He has traveled extensively throughout the region and is well versed in the political, social, and economic attributes of the Asia Pacific region. Mr. Johnson serves on the board of the East-West Center and is Chairman of the Hawaii Business Roundtable. He is a member of the U.S.-Japan Business Council and the Japan-Hawaii Economic Council.

Robert Z. Lawrence

Mr. Lawrence is the Albert L. Williams Professor of International Trade and Investment at the John F. Kennedy School of Government, Harvard University, and the New Century Senior Fellow at the Brookings Institution. Professor Lawrence has been a senior fellow in the Economic Studies Program at the Brookings Institution. He has served as a consultant to the Federal Reserve Bank of New York, the World Bank, the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD). He is also a research associate at the National Bureau of Economic Research and has served as a member of the advisory committees of the Institute for International Economics, the Panel of Foreign Trade Statistics of the National Academy of Sciences, the Committee for Economic Development, the Overseas Development Council, and the Panel of Economic Advisors of the Congressional Budget Office.

Professor Lawrence has written or co-authorized books on domestic and international economic problems which include *Regionalism, Multilateralism and Deeper Integration*; *A Vision for the World Economy: Openness, Diversity and Cohesion*; *Single World, Divided Nations: Trade and OECD Labor Markets; Can America Compete?; Saving Free Trade: A Pragmatic Approach; and Primary Commodity Markets and the New Inflation*. He has co-edited *Barriers to European Economic Growth: A Transatlantic Perspective; U.S. Living Standards: Threats and Challenges; An American Trade Strategy: Options for the 1990's and North American Free Trade: Assessing the Impact.* Dr. Lawrence's current research focuses on global integration and the impact of trade on the labor market.

Kenneth Lewis

Mr. Lewis had over 30 years experience in the international shipping industry before he retired in 1994 as President and CEO of Lasco Shipping Co. In his positions at Lasco, Mr. Lewis worked extensively with the business communities of the Asia Pacific region. Over the course of his tenure at Lasco, and starting in the 1960s, he made over 100 trips to the Asia Pacific region. As a buyer, he arranged for the construction of vessels from shipyards in Japan, South Korea, and China and for the purchase of existing vessels from shipping and trading companies in Japan. As a seller, he arranged for the chartering of vessels to companies in Japan, South Korea, China, and Taiwan. The vessels operated by Lasco carried cargo throughout the world, but focused mainly on trade with Japan, South Korea, China, and Taiwan.

Mr. Lewis received his B.A. from Princeton University (Woodrow Wilson School of Public and International Affairs) and his J.D. from Harvard Law School.

Mr. Lewis was appointed to the Port of Portland Commission by Republican and Democratic Oregon Governors. While serving as President of the Port of Portland Commission, he helped negotiate the first agreement with China for Portland to become a major port of entry for Chinese goods coming to the United States.

James C. Morgan

Mr. Morgan has been chief executive officer of Applied Materials since 1977. Applied Materials is a Fortune 500 global growth company providing core capabilities that enable the emerging global Information Age. The company is the largest producer of wafer fabrication systems and services for the world wide semiconductor industry. As a major exporter, 69 percent of Applied Materials' fiscal 1996 sales were overseas, with more than 50 percent of total sales to Asia.

Mr. Morgan is a recipient of the 1996 National Medal of Technology for his industry leadership and for his vision in building Applied Materials into the world's leading semiconductor equipment company, a major exporter and a global technology pioneer. Mr. Morgan served on the National Advisory Committee on Semiconductors, which advised President Bush and Congress on a national strategy to strengthen competitiveness of the U.S. semiconductor industry. Mr. Morgan's experiences in gaining access to Asia Pacific markets for semiconductor equipment are reflected, in part, in his co-authored book, *Cracking the Japanese Market: Strategies for Success in the New Global Economy*.

A member of a number of civic and global business organizations, Mr. Morgan is a Director Emeritus and past president of Semiconductor Equipment and Materials International (SEMI), the first global trade association, and is a past board member of the American Electronics Association (AEA). From 1986-1991 he was a co-chairman of the Japan-Western U.S. Association.

Harold A. Poling

Mr. Poling served as Chairman and CEO of Ford Motor Company from 1990 to 1994. Throughout an active career with Ford, Mr. Poling has been involved with every segment of the company's operations. He has served as Vice President and Chairman of Ford's European subsidiary. Mr. Poling is one of the foremost authorities on the world auto market and has won many prestigious awards for his commitment to the industry. His experiences in the Asia Pacific region include working very closely with Mazda in Japan, Kia Motors of South Korea, as well as working with the U.S.- Japan Council and recent contacts with Japanese business and government officials.

Ron Sims

Mr. Sims was recently elected King County (Washington) Executive, after serving three terms on the Metropolitan King County Council. He chaired the Economic and Development and Regional Governance Committee. Through his work on this committee and other experiences he developed a background in trade and investment, particularly with the Pacific Rim, reflecting a metropolitan area perspective. He recently participated as a delegate to the Intercity Study Mission in Hong Kong. The mission was organized to examine the international success of Hong Kong, its organizational strategy, investments, infrastructure, education, housing, and to build ties between the two entities. Mr. Sims has also participated in a sister-county mission to Taiwan and South Korea with the Trade Development Alliance. Mr. Sims continues to work very closely with Seattle's most active Asian trading partners to strengthen economic and cultural ties between similar metropolitan areas of Asia and the King County area.

Bruce E. Stokes

Mr. Stokes is a Senior Fellow and Director of Trade Programs at the Council on Foreign Relations. He is author of numerous articles in the *National Journal, Foreign Affairs, Foreign Policy, International Affairs, Foresight, Politique Estrangere, The New York Times* and *The Washington Post*. Mr. Stokes is the co-author of the chapter "Asian Regionalism and U.S. Interests" in the book *The United States and Japan in Asia.* He is also the author of numerous shorter studies, including *Japanese Investment in the United States: Its Causes and Consequences* and *The Inevitability of Managed Trade.* From 1987-89, Stokes was a fellow of the U.S.-Japan Leadership Program.

Jackson Tai

Mr. Tai is J.P. Morgan & Co. Incorporated's senior officer for its business in the Western United States. Prior to this assignment, Mr. Tai was senior officer for the Asia Pacific from 1992 to 1995, based in Tokyo. As Chairman of the Asia Pacific Management Committee, he was responsible for coordinating J.P. Morgan's businesses in Japan, South Korea, China, Hong Kong, Taiwan, Singapore, Malaysia, Indonesia, the Philippines, Australia, and New Zealand.

From 1986 to 1992, Mr. Tai was Managing Director and head of J.P. Morgan's Real Estate Department, which provides financial and advisory services to corporate, institutional, and private clients in Europe, the Americas, and Asia. From 1983-1986, Mr. Tai was Executive Director and Chief Representative of J.P. Morgan Securities Asia, Ltd. in Tokyo. In that capacity he was responsible for all capital markets activities in Japan. Mr. Tai received a B.S. from Rensselaer Polytechnic Institute and a M.B.A. from Harvard University.

Yah Lin Trie

Mr. Trie has lived in Arkansas for 21 years and has owned and operated a chain of successful dining establishments in central Arkansas and Texas. Mr. Trie created Daihatsu International, an import/export company involved in Asia Pacific. For many years, Mr. Trie has worked to promote goodwill and understanding between the people of Asia Pacific and the United States. Mr. Trie was instrumental in establishing sister city relations between Changchun, China and Little Rock, Arkansas.

Ko-Yung Tung

Mr. Tung is Chairman of the Global Practices Group for the international law firm, O'Melveny & Myers LLP. Currently Mr. Tung's practice consists primarily of representation of multinational clients in mergers and acquisitions, banking finance, real estate and commercial matters, with particular emphasis in trans-Pacific transactions. Mr. Tung received his B.A. from Harvard College, J.D. from Harvard Law School, and graduate fellowship from the University of Tokyo.

From 1975 until 1988, Mr. Tung was an Adjunct Professor of Law at the School of Law of New York University teaching courses on international business transactions and Japanese law. He serves as the Chairman of the Board of Governors of the East-West Center, a federally established educational and research institution in Honolulu, Hawaii devoted to the promotion of better understanding between the United States and the Asia Pacific nations. He is a member of the Trilateral Commission, the Council on Foreign Relations, Asia Society, Japan Society, Overseas Development Council, United States National Committee for Pacific Economic Cooperation, National Committee on United States-China Relations, the United States-China Business Council, Advisory Council of Human Rights Watch/Asia, the Board of Directors of the Asian-American Legal Defense and Education Fund.

Harriett M. Wieder

Mrs. Wieder has 30 years of public policy experience. She served 16 years as an elected County Supervisor in Orange County, California and in that capacity three times as Chairman of the Board. Other experiences in local government include 10 years as an executive-assistant to the Mayor of Los Angeles and 4 years as Mayor and a City Council member of Huntington Beach, California. During her 16 years with the Orange County Board of Supervisors, she established the Office of Protocol with the objective of increasing trade and investments for Orange County businesses.

In the private sector, Mrs. Wieder has served the past 4 years on the Advisory Council and Board of Directors of The International Forum for Corporate Directors. The goal of the Forum is to increase business activity with the Pacific Rim countries. She also holds the position of Vice President for Communications of the International Women's Forum. Mrs. Wieder is also Vice President of Overseas Marketing Exchange, an importing and manufacturing business.

Robert A. Wilson, Jr.

Mr. Wilson is one of the leading American businessmen in the Asia Pacific region. Mr. Wilson has worked for Citibank, N.A. for 17 years, including the last 11 years in South Korea, Singapore, and Thailand. In 1996, Mr. Wilson assumed his current position as General Manager and Country Corporate Officer for Citibank, N.A. in South Korea. Previously, he served as Regional Manager for Citibank activities in Thailand, Vietnam, Burma, Laos, and Cambodia. Prior to that position he was the Regional Credit Officer for Southeast Asia and South Asia. Mr. Wilson is intimately familiar with financial service sector developments, trade and investment, and sovereign risk issues throughout the Asia Pacific.

Mr. Wilson served as President of the American Chamber of Commerce in Thailand in 1995 and 1996. Mr. Wilson currently serves as Chairman of the Asia Pacific Council of American Chambers of Commerce (APCAC) and represents the interest of American industry throughout the Asia Pacific region before the Congress and the Administration. In particular, Mr. Wilson worked with Administration officials and the Congress to lift the U.S. trade embargo on Vietnam in February 1994, to normalize diplomatic relations between the United States and Vietnam in July 1995, and to sign a convention between the United States and Thailand for the Avoidance of Double Taxation in November 1996. Mr. Wilson is a frequent spokesman for American business in the Asia Pacific region on diverse issues such as funding for U.S. export assistance programs, the Asia Pacific Economic Cooperation (APEC) forum, and Universal Business Principles for American business overseas.

Meredith Woo-Cumings

Ms. Woo-Cumings is an Associate Professor of Political Science and Director of the Roundtable on Political Economy at Northwestern University. She specializes in comparative politics and political economy, with emphasis on East Asia. She has authored and edited four books, including *Race to the Swift: State and Finance in Korean Industrialization* (Columbia University Press, 1991); *Past as Prelude: History in the Making of the New World Order* (Westview Press, 1991); *Ungoverning Capital: Financial Liberalization in Comparative Perspective* (Cornell University Press, 1996), and *The Developmental State in Comparative Perspective* (Cornell University Press). The first book, *Race to the Swift* was published under the name Jung-en Woo.

Professor Woo-Cumings was born in 1958 in Seoul, Korea, and raised in Tokyo, Japan, where she attended an international high school. She received her B.A. in English and History from Bowdoin College and Ph.D. in Political Science from Columbia University. Before joining Northwestern University in 1989, she taught at Colgate and Columbia Universities.

Annex B: Commission Background and Record

Establishment

The Commission on U.S.-Pacific Trade and Investment Policy ("Commission") was established by Executive Order 12964 on June 21, 1995 (as amended January 31, 1996 by Executive Order 12987, and December 26, 1996 by Executive Order 13032) to examine trade barriers, trends and issues in trade and investment policy in Asia Pacific, and make recommendations to the President and Congress on steps the United States should take to achieve significant market opening of Asia Pacific markets to U.S. business. The functions charged to the Commission are stated as follows:

> On or about February 28, 1997, the Commission shall report to the President on the steps the United States should take to achieve a significant market opening of Japan, China and other Asian and Pacific markets to U.S. business. The report also shall identify trade and investment impediments to U.S. business in Asian and Pacific markets and provide recommendations for reducing the impediments. The report's recommendations shall reflect the goal of securing increased access for U.S. business to Asian and Pacific markets, by the turn of the century, in such a way that a maximum number of high-wage jobs are created and maintained in the United States. The Commission also shall recommend to the President (1) measures to strengthen, if necessary, ongoing programs for regular monitoring of progress toward this goal, including the periodic assessment of the nature and scope of trade and investment impediments; and (2) realistic measurements of trade and investment activity in Asia and the Pacific, which consider all relevant factors, including the composition of trade and intracompany trade and investment patterns.

Members

Made up of seventeen individuals with a broad range of expertise regarding Asia Pacific and/or trade issues, the Commission includes representatives from large and small businesses, academia, labor, local government, and journalism. A broad range of perspectives has been brought to the Commission's work by the inclusion of members who have experience in: manufacturing; service industries; entrepreneurial ventures including importing and exporting; the foreign and trade policy communities; export promotion and finance; investment and intellectual property rights; the international legal community; labor and environmental issues. All members have either lived, worked, actively traveled or studied the region for years. Four members bring Asian American heritage and a knowledge of Asia Pacific cultures, history, and economic and social challenges of the region to the Commission's work. One member has represented the views of American firms operating on the ground in the region by serving simultaneously as the President of the Asia Pacific Chambers of Commerce and as a member of the Commission.

Overview of the Commission's Work Program

At their first meeting, members recognized the breadth and depth of their expertise, but also noted areas where their individual and collective knowledge needed further development. With this in mind, the Commission developed an initial four month study program focused on obtaining input from specialists on a number of important issues. After the initial study period, the Commission began a detailed examination of the primary issues and barriers. In an effort to supplement the Commission's work program, eight Commission members traveled to Japan, Hong Kong, Indonesia, Thailand, Taiwan, and China at their own expense. They met with American business leaders who had responsibility for specific countries and the region. They also met with Asia Pacific business and government leaders. After returning from the trip, the Commission began to develop its findings and recommendations. The Chairman, Vice-Chairman, and individual members also met with representatives of Congress.

Meetings

From the first meeting on April 23, 1996 to the completion of its work, the Commission met 15 times in formal session. A synopsis of each of these meetings, the subject matter addressed, and the witnesses and experts with which the Commission met is provided below.

April 23, 1996: At the initial session, the Commission was charged with its responsibilities in a ceremony conducted by Secretary of Commerce Mickey Kantor, Acting United States Trade Representative Charlene Barshefsky, and Senator Jeff Bingaman. The Commissioners immediately entered into working sessions focusing on initial overviews of the political/security setting, economic and trade picture in Asia Pacific, the last 15 years of bilateral trade negotiations with key trading partners in Asia Pacific, the current U.S. government trade and investment policy structure, and the tools currently available to American trade negotiators to address trade and investment barriers.

Expert Witnesses

Michael Kantor, United States Secretary of Commerce

Charlene Barshefsky, Acting United States Trade Representative

Jeff Bingaman, U.S. Senator, (D-NM)

Central Intelligence Agency - Asia Branch

Ira Shapiro, Senior Counsel and Negotiator, Office of the United States Trade Representative

Lee Sands, Assistant United States Trade Representative for Japan and China

Robert Cassidy, Assistant United States Trade Representative for Asia and the Pacific

Jennifer Hillman, General Counsel, Office of the United States Trade Representative

Patrick Cronin, Senior Research Professor, Institute for National Strategic Studies, National Defense University

James Delaney, Senior Associate, Institute for Defense Analysis

May 14, 1996: The Commission began to address specific topics at the May meeting. The agenda focused upon Asia Pacific perspectives of the region, the various Asia Pacific economies, and the U.S. economy. Other agenda items included key trends and issues in U.S. economic relations with Asia Pacific, particularly Japan, the U.S.-Asia Pacific foreign policy and security context, assessment of the effectiveness of U.S. trade and investment policy tools and leverage, APEC and its trade and investment role, and the application of game theory to economic and trade issues.

Expert Witnesses

Meredith Woo-Cumings*, Associate Professor, Northwestern University

Jackson Tai*, Managing Director (Western U.S.), J. P. Morgan

Kozo Yamamura, Professor, University of Washington

Ezra Vogel, Professor, Harvard University

Clyde Prestowitz*, President, Economic Strategy Institute

Robert Z. Lawrence*, Professor, Kennedy School of Government, Harvard University

Paul Wolfowitz, Dean, Paul H. Nitze School of Advanced International Studies, the Johns Hopkins University

Alan Wolff, Partner, Dewey Ballantine

Judy Bello, Partner, Sidley and Austin

Sandra Kristoff, Special Assistant for Asian Affairs, National Security Council

Nancy Adams, Commission Executive Director and Assistant U.S. Trade Representative for APEC Affairs

Fred Bergsten, President, Institute for International Economics

Barry Nalebuff, Professor, Yale University

(* denotes Commission member)

May 22, 1996: (Informal Commission session with Asia Pacific business representatives of the Pacific Basin Economic Council.) Commission members met with Asia Pacific business leaders to hear their views on U.S. trade policy. The discussion concentrated on the effectiveness of U.S. policy approaches to the region and what Asia Pacific business leaders consider to be U.S. priority issues in the future.

Participants

Kim Ki Hwan, Chairman of the Board, Korea Trade Promotion Corporation (Korea)

S.R. Cho, Chairman, Hyosung Business Group (Korea)

Sozaburo Okamatsu, Long Term Credit Bank of Japan (Japan)

Toyoo Gyohten, Senior Advisor, Bank of Tokyo Mitsubishi Ltd. (Japan)

Tommy T.B. Koh, Ambassador at Large (Singapore)

William Falconer, Barrister (New Zealand)

Thomas Arai, Chairman, Systems International Inc. (Japan)

June 12, 1996: The meeting concentrated on human rights and trade, trade and the environment, the views of the Commission on problems and solutions, and relations with China. Commission members also received a briefing by Laura Tyson, National Economic Advisor to the President on past experiences and the future of trade relations with the countries of the Asia Pacific region.

Expert Witnesses

Sidney Jones, Executive Director, Asia Division, Human Rights Watch Asia

David Schorr, Senior Officer, World Wildlife Fund

Robert Morris, Senior Vice President, U.S. Council for International Business

Laura Tyson, National Economic Advisor to the President

June 26, 1996: The areas of high-technology, intellectual property rights, agriculture and biotechnology are of great importance to the U.S. economic presence in Asia Pacific and the future of American competitiveness. In order to assure that the Commission received adequate input from these industries, the Commission held its June 26, 1996 meeting at Silicon Valley in Santa Clara, California.

Expert Witnesses

Regis McKenna, President, Regis McKenna Inc.

Richard Elkus, Chairman & Executive Vice President, Tencor Instruments

Andy Procassini, former President, Semiconductor Industry Association

Michael Borrus, Co-Director, Berkeley Round Table on the International Economy (BRIE).

John Zysman, Co-Director, Berkeley Round Table on the International Economy (BRIE).

James Morgan*, Chairman and CEO, Applied Materials

Irving Ho, Founder, Etron Integrated Circuits

Craig Barrett, Executive Vice President and CEO, Intel Corporation

George Sollman, President and CEO, Centigram Communications

Mike Morrissey, KLA Instruments

Daryl Hatano, Semiconductor Industry Association

Debra Waggoner, American Electronics Association

Robert Holleyman II, President, Business Software Alliance

Carol Brookins, Chairman and CEO, World Perspectives, Inc.

Ann Veneman, Secretary of Agriculture, State of California

Lew Platt, Chairman and CEO, Hewlitt Packard

July 17, 1996: The meeting provided an opportunity for the Commissioners to hear from leaders representing industries that have intensively pursued access to Asia Pacific markets. The speakers described the success and the frustration of their firm's attempts to enter these markets as well as the obstacles, domestic and abroad, that hinder these efforts. The meeting continued with a panel discussion of experts providing information on worker rights. To address investment issues related to Asia Pacific, the Commission heard from three investors who have been active in Asia Pacific, representing both portfolio and foreign direct investment interests. The speakers discussed the opportunities and the strategies for investing in Asia Pacific and gave their input on the role they would like to see the U.S. government play in addressing foreign investment issues. The meeting concluded with a closed session discussion with the Deputy Secretary of the U.S. Treasury assessing our relations with the countries of the region.

Expert Witnesses

Frank Shrontz, Chairman, The Boeing Company

Andrew Card, President, The American Automobile Manufacturers Association

Arnold Brenner, Executive Vice President, Motorola

Morton Bahr*, President, Communication Workers of America

Mark Anderson, Director, The Task Force on Trade AFL-CIO

Thea Lee, Economist, The Economic Policy Institute

David Fisher, Chairman, The Capital Group

Charles Frank, Vice President, GE Capital

Anthony Fernandez, Executive Vice President, ARCO

Lawrence Summers, Deputy Secretary, U.S. Department of Treasury

July 31, 1996: The Commission continued its efforts to identify issues that affect U.S. trade and investment policy in Asia Pacific. Areas of discussion included constructive engagement with China and the other Asia Pacific nations, a thorough evaluation of our trade tools and their use, the U.S. government's trade promotion efforts and what the European Union is doing in the region. Presentations on competition policy and antitrust provided the Commission with more knowledge regarding the problems of competition in the Asia Pacific region, and the status of bilateral, regional, and global debates on competition policy, antitrust and anti-competitive behavior.

Expert Witnesses

Robert Eaton, Chairman and CEO, Chrysler Corporation

George Fisher, Chairman and CEO, Eastman Kodak

Stuart Eizenstat, Under Secretary of Commerce

Jeffrey Lang, Deputy U.S. Trade Representative

Anne Bingaman, Assistant Attorney General for Anti-Trust

August 8, 1996: The Commission began internal deliberations to synthesize the information obtained and assess the progress made in examining trade and investment issues. The Commissioners identified the additional resource materials needed to further define the road map for the report. In order to further expand the members' knowledge of Asia Pacific markets, the Commission determined that between September 16-28, 1996 the Commission would visit a number of Asia Pacific countries. Meetings would be arranged with government officials, U.S. business representatives in the region, local business leaders, and entrepreneurs to learn their views on trade and investment within the region. These meetings covered specific topics tailored to the circumstances the United States faces in each country. Members visited Japan, Hong Kong, Thailand, Indonesia, Taiwan, and China. Following the trip to Asia Pacific, a number of the Commission members attended a dinner hosted by Leslie Gelb, President of the Council on Foreign Relations on October 1, 1996 to discuss the Commission's preliminary findings and receive some feedback from experts on foreign policy and international business.

October 8, 1996: The Commissioners examined issues related to the World Trade Organization (WTO), the WTO dispute settlement process, the process that the United States follows for all WTO accession negotiations, the ramifications of the WTO accession process, and an analysis of the obligations which Taiwan and China must meet to enter the WTO.

Expert Witnesses

Jane Bradley, Assistant U.S. Trade Representative for Monitoring and Enforcement

Dorothy Dwoskin, Assistant U.S. Trade Representative for WTO and Multilateral Affairs

October 18, 1996: The Commission heard from Senator Jeff Bingaman of New Mexico who was instrumental in the creation of the Commission. He voiced concern over the growing trade imbalance we have in the Asia Pacific region and discussed the views on Capitol Hill regarding trade and investment issues. To further examine the utilization of trade tools, the Commission met with an official of the U.S. International Trade Commission. The discussion on trade remedies and anti-competitive practices provided the Commissioners with a detailed explanation of the interaction of trade tools and their uses. The remaining portion of the meeting focused on developing the report's recommendations and the framework of the document.

Expert Witnesses

Jeff Bingaman, U.S. Senator, (D-NM)

Lyn Schlitt, General Counsel, U.S. International Trade Commission

October 30, 1996: To ensure that the major areas of concern had been addressed, the Commission asked Ambassador Charlene Barshefsky, Acting U.S. Trade Representative, to discuss the Administration's view of certain key issues and to seek her reaction to some of the Commission's preliminary recommendations. The Commission, then, continued its deliberations on the recommendations of the report.

Expert Witness

Charlene Barshefsky, Acting U.S. Trade Representative

November 8, November 25, December 16-17, 1996, February 28, 1997: The Commission continued deliberations on the findings and recommendations. This process, which occurred over several months, allowed the Commission members to examine testimony, data, and information, and to finalize its conclusions.

Annex C: Brief Review of United States Trade Policy and Asia Pacific Trade Relations, 1981-1996[1]

1981-1984 THE FIRST REAGAN ADMINISTRATION

OVERVIEW:

- As the Reagan Administration took office, trade constituted only 10 percent of gross national product. The trade deficit, valued at $3.4 billion, merited little attention. Trade policy centered on the implementation of the Tokyo Round of Multilateral Trade Negotiations. Completed in 1979, the Tokyo Round was the seventh round of trade negotiations in the General Agreement on Tariffs and Trade (GATT). Other important negotiations in this period included: a counterfeit code; a North-South Dialogue in the United Nations; a series of commodity agreements; and an agreement in the Organization for Economic Cooperation and Development (OECD) on subsidy elements in official export credit schemes.
- The five central components of the Reagan Administration policy were: restoration of non-inflationary growth; reduction of self-imposed export disincentives; better management of government export promotion programs; effective enforcement of U.S. trade laws and international agreements; effective approaches to industrial adjustment problems; and the improvement and extension of international trade rules.
- By 1982, the United States proposed a new trade initiative at a GATT Ministerial Conference to address all the unfinished business of the Tokyo Round including negotiation of new disciplines, safeguard actions, agriculture, trade-related performance requirements, trade in services, trade in high-technology goods and differential treatment for developing countries. Unfortunately by November 1982, when the meeting was held, many GATT members were already mired in recession and were unwilling to make concessions to liberalize world trade.
- 1983 witnessed a demand for trade restrictions with a force that had not been felt since the 1930s. Continued recession in many countries, a rise in unemployment and the financial difficulties of companies that were no longer internationally competitive fueled the trend. The

[1] Annex IV was compiled from Annual Reports of the President on the Trade Agreements Program from 1980 - 1995.

volume of world trade declined by 2% and the Mexican peso crisis underlined the interdependence of trade and financial policies. As multilateral consensus for trade negotiations became increasingly elusive, the United States began to pursue negotiations with "like-minded" countries to achieve higher levels of trade discipline. The U.S. Trade Representative informally proposed a free trade area to the Association of Southeast Asian Nations (ASEAN), but discussion did not proceed. Committed to completing their own regional integration first, these countries believed that this type of bilateral initiative was premature. Instead, in November 1983, the United States and Israel agreed to negotiate a free trade area. In a similar vein, the United States and Canada set up working groups to explore sectoral free trade.

- Pressure for protectionist legislation in Congress mounted as the trade deficit grew and trade-sensitive industries such as iron and steel failed to reap the benefits of the economic recovery. Various initiatives were consolidated into the Trade and Tariff Act of 1984 that extended the Generalized System of Preferences (GSP), improved the administration of U.S. countervailing and dumping laws, granted the United States authority to negotiate a free trade area with Israel and created "reciprocity" measures for investment and services.
- In the area of investment, the U.S. government developed a Bilateral Investment Treaty (BIT) program to augment its treaties of Friendship, Commerce and Navigation (FCN). The BITs provided for the better of national or most-favored nation treatment, standards for expropriation and compensation, free transfer of capital and profits and dispute settlement mechanisms. Internationally, the United States spearheaded efforts in the OECD and the GATT to create international disciplines on performance requirements.

ASIA-SPECIFIC POLICIES

Japan

- The most prominent sectoral trade problem was the confluence of rising imports of Japanese automobiles and the declining health of U.S. auto producers. The U.S. International Trade Commission (USITC) denied import relief to a section 201 petition brought by the United Auto Workers and the Ford Motor Company. Instead, the Japanese Ministry of Trade and Industry announced a voluntary restraint agreement (VRA) that limited the exports of passenger cars to the United States for a two-year period. This unilateral restraint was extended to a third and fourth year. In November 1983, the House of Representatives again passed an automotive domestic content bill, although the Senate took no final action.
- With Japan, a growing imbalance in bilateral trade (1981 $15.789 billion deficit) called attention to a perceived lack of equity in market access. High import penetration of Japanese autos, consumer electronics, and machine tools was characterized as a threat to U.S. workers, exacerbating already high unemployment. A series of sub-Cabinet and lower level bilateral committees were created to address market access and high–technology. Two GATT cases were filed by the United States on leather and Japanese certification procedures. Bilateral agreements were negotiated on manufactured tobacco products, fisheries, leather, telecommunications standards and procurement and forest products.

- Negotiations with Japan repeated a pattern of trade complaint, liberalization and implementation with attendant difficulties at each stage. In addition to tobacco and machine tools, agricultural exports faced impediments. The United States began GATT dispute settlement procedures on quantitative restrictions on 19 agricultural products.
- In 1984, a U.S.-Japan Investment Committee, formed by President Reagan and Prime Minister Nakasone, met for the first time to encourage greater two-way investment flows. The agenda included Japan's prior notification system for foreign investment and our unitary tax system.
- In June 1984, the U.S. Electronics Industry Japan Office was opened to help U.S. electronics companies penetrate the Japanese electronics market and improve the worldwide competitiveness of U.S. electronics companies. The office was funded by the U.S. Government and various U.S. electronics and scientific apparatus organizations.

China

- With China, the most significant event in this period was the approval and implementation of the U.S.-China Trade Agreement which allowed the Administration to give Most-Favored-Nation treatment (MFN). The bilateral agreement took effect in 1980 and must be renewed every three years. The agreement contains safeguards against market disruption and commits each party to protect intellectual property. China's MFN status is extended on an annual basis through Presidential waivers under the Jackson-Vanik Amendment and section 402 of the 1974 Trade Act. With this first grant of MFN tariff treatment, total trade doubled in one year. A Joint Economic Commission (JEC) was established to implement the agreement.
- As U.S. investment in China grew ($300 million in 1983, of which $50 million was equity), the Administration began talks to establish a Bilateral Investment Treaty. These talks never led to an agreement.
- Textiles proved to be the first dueling ground for the two countries. When the two sides failed to renew a bilateral textile agreement, the United States invoked unilateral restraints, as required by law. In response, China banned the purchase of all man-made fibers, cotton and soybeans from the United States and threatened to reduce purchases of other agricultural products. An agreement was signed six months later after a significant decline in U.S. agricultural exports.

South Korea, Hong Kong, Taiwan, and ASEAN

- U.S. policy-makers began to focus on trade with the developing countries of Asia Pacific in the early 1980s. U.S. exports with these countries had grown at an average annual rate of 20 percent or the previous decade. Bilateral trade dialogues were established and expanded with South Korea, Taiwan and ASEAN. With Taiwan, the United States initiated a series of reciprocal tariff negotiations. It supported Thailand's application for GATT Accession.
- Closer trade ties also led to disputes. These disputes included: a ban on importing cigarettes for use by South Korean nationals; a 1983 decree making it impossible to export small computers and peripherals in the absence of a plan for local production; and impediments to

the importation of frozen potatoes for fast food outlets. The United States made gains on liberalizing import licensing restrictions on manufactured and farm products.

- Taiwan also drew its share of 301 cases. In 1984, U.S. industry filed a case alleging a tightening of restrictions on the importation and exhibition of U.S. films. A second 301 was filed alleging that Taiwan had displaced U.S. rice in third-country markets through export sales of subsidized rice. The petitioners withdrew their complaints once the two governments reached agreement.
- Also in 1984, Taiwan responded to U.S. tariff concerns by liberalizing duties on 59 items of interest.
- With ASEAN, the United States began to monitor trade measures taken to alleviate balance of payments problems. When Indonesia moved beyond the traditional import surcharges to mandated counter trade, the United States allied with other trading partners and the World Bank Group to convince Indonesia to end this practice.
- In July 1984, the United States and Indonesia signed a Memorandum of Understanding (MOU) on investment as a first step toward strengthening bilateral investment relations.

1985-1988 THE SECOND REAGAN ADMINISTRATION

OVERVIEW:

- September 1985 marked the next great change in U.S. trade policy. The underlying policy theme was an assertion that free trade was, by definition, fair trade. All sides must abide by the rules. To implement this policy, the President instructed the USTR to self-initiate a series of unfair trade cases under Section 301, an historic first.
- Other aspects of the policy change included: creating a war chest of $300 million to support mixed credit loans to counter foreign government subsidies; influencing World Bank/ International Monetary Fund lending based on the trading practices of other nations; setting time limits for negotiations on market access with Japan; establishing an inter-agency task force to uncover unfair trade practices and develop strategies to eliminate them; and expanding assistance to those who lost jobs as a result of trade.
- The last element of the policy was to seek legislative authority to negotiate trade initiatives, improve intellectual property laws, enlarge anti-dumping and countervailing duty laws to cover non-market economies, and amend trade laws to place deadlines on dispute settlement.
- The results of these policy initiatives included: a reduction of the trade deficit by 40 percent in real terms; the launch of the Uruguay Round of multilateral trade negotiations; the conclusion of the U.S.-Canada Free Trade Agreement; a series of bilateral agreements in settlement of section 301 cases; and the enactment of the Omnibus Trade and Competitiveness Act of 1988.

ASIA-SPECIFIC POLICIES

Japan

- Rather than enacting new trade restraints, Japan was glacially slow in lifting existing non-tariff barriers. Barriers increasingly took the form of governmental regulatory rules or rigid Japanese business practices. Disputes proliferated to such an extent that President Reagan and Prime Minister Nakasone agreed in January 1985 to create bilateral teams led by senior officials to remove barriers in four sectors: forest products, telecommunications, electronics and medical equipment, and pharmaceuticals. A fifth export sector, auto parts, was added in 1986. These Market-Oriented Sector Specific (MOSS) talks resulted in a series of agreements.
- In the automobile sector, Japan unilaterally undertook a voluntary export restraint in 1985, which remained in place through March 1989.
- In September 1985, the President instructed the USTR to accelerate a case against Japanese prohibitions on imports of our leather and leather footwear. Another case was self-initiated against Japan for discriminatory restrictions on the sale of tobacco products. The tobacco case was resolved in a settlement agreement in 1986.
- The United States also urged Japan to stimulate domestic demand and reduce its trade deficit.
- In 1987, the United States and Japan agreed on new procedures for supercomputer procurement by Japanese governmental entities including national universities and laboratories. This agreement was designed to reduce Japan's bias which had excluded U.S. firms from the public sector market.
- By 1988, the United States and Japan reached agreement on eliminating Japanese quotas on beef, citrus and several other agricultural products. Other agreements allowed foreign lawyers to practice in Japan; provided access to Japanese construction contracts; compensated the United States for Japan's restrictive practices on leather and leather footwear; and significantly increased Japan's import quotas on certain fish products.
- In the same year, in unprecedented fashion, the United States resorted to retaliatory action under section 301 of the Trade Act of 1974 in a dispute with Japan on semi-conductors. The President increased duties to 100 percent ad valorem on $300 million worth of Japanese products.

China

- In July 1986, China indicated interest in GATT Contracting Party status. China wished to "resume" its previous GATT membership on the basis of tariff negotiations alone and as a developing country. The United States and other GATT Contracting Parties agreed to negotiate with China only in the context of a protocol of accession that would address non-tariff issues including the non-market aspects of China's economy.
- The United States proposed a five-point framework for China's accession as follows: a single national trade regime; increased transparency through a public and published trade law;

removal of GATT-inconsistent non-tariff barriers; Chinese commitment to completing price and trade reforms; and pending this completion, a selective safeguard provision to protect against possible market disruption caused by China's non-market pricing and production practices.

- The United States negotiated a voluntary restraint agreement with China on steel and an orderly marketing agreement on tungsten and ammonium paratungstate in 1987.

South Korea, Hong Kong, Taiwan and ASEAN

- In September 1985, the President directed the USTR to open an investigation against South Korea for laws that prohibited fair competition for U.S. insurance firms.
- From 1985 through 1988, the U.S. mounted a market access campaign in South Korea. The goal was to reduce high tariffs and import licensing restrictions on nearly 1,000 products of interest to U.S. manufacturers and farmers. By 1988, South Korea had announced tariff reductions on more than 1,100 products. However, import bans and quantitative restrictions continued to prevent market access for many agricultural products. To obtain meaningful agricultural market opening, the U.S. abandoned its product-by-product negotiating approach and instead proposed that South Korea's entire import licensing system be liberalized by 1990. Additional negotiations eliminated South Korea's feed ingredient import quotas and increased market access for processed wood products.
- By 1988, the United States and South Korea had concluded agreements relating to insurance, investment and intellectual property protection. Both insurance and intellectual property rights were self-initiated 301 cases. The investment agreement addressed a forced divestiture policy that required companies to sell at least 30 percent of their stock to the public. In May 1988, South Korea agreed to cut the tax on imported cigarettes, allow cigarette imports, retail sales and advertising. Just as these cases were resolved, an additional series of 301 cases were filed by industry on wine and beef.
- In the area of telecommunications, maritime services and advertising, South Korea cut tariffs, eased restrictions on foreign equity participation and eased approval procedures and reduced tariffs on related products as a result of intensive negotiations with the United States.
- In the case of Taiwan, the President acted under Section 301 even though U.S. industry had not requested such action and the USTR had not conducted a formal investigation. These cases concerned: customs valuation practices inconsistent with Taiwan's obligations under an existing bilateral trade agreement; and practices restricting U.S. beer, wine and tobacco sales in Taiwan's market. In both cases, Taiwan agreed to cease these practices.
- In 1987 Taiwan had, after Japan, the second largest bilateral trade surplus with the United States. In response to U.S. requests, Taiwan cut tariffs on 4,577 products. As a result, Taiwan's nominal average tariff rate fell from 20 percent at the beginning of 1987 to about 12 percent in 1988. Taiwan eliminated import bans on several items, improved intellectual property protection and expanded access to service industries including banking, securities, maritime and insurance.

- Economic relations with ASEAN, which included the nations of Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand continued to improve as trade, investment and technology transfer increased. In 1988, as part of an ASEAN-U.S. Initiative, the two sides examined tariff and non-tariff barriers and measures that facilitated or impeded the flow of capital and technology. The United States signed a bilateral agreement on intellectual property protection with Singapore and negotiated with Malaysia, Indonesia, the Philippines and Thailand on this subject.
- In 1988, the President decided to remove or "graduate" Hong Kong, South Korea, Singapore and Taiwan from the Generalized System of Preferences (GSP) due to their remarkable economic advancements and improved trade competitiveness. The GSP is a program of duty-free preferences that the U.S. grants to developing countries. In this same year, the United States also removed Brunei from GSP because its per capita income exceeded the statutory limit for GSP beneficiaries.

1989-1992 THE BUSH ADMINISTRATION

OVERVIEW

- The Bush Administration began its tenure with a clear goal: to create a world in which entrepreneurs, not government bureaucrats, determine how industries and farms compete and how nations trade. A three-pronged strategy was designed to achieve this vision: commitment to conclude the Uruguay Round by December 1990; pursuit of market-opening initiatives with key trading partners, such as Canada, Mexico, Japan and the European Community, and use of the domestic market to open foreign markets and expand trade. Of the three elements, successful conclusion of the Uruguay Round was deemed the highest priority because one third of world trade, or more than $1 trillion in goods and services, took place outside internationally agreed rules.
- In parallel, as the Uruguay Round extended beyond its original 1990 deadline, the Bush Administration undertook a series of bilateral initiatives including the North American Free Trade Area (NAFTA) with Canada and Mexico, the Enterprise for the Americas Initiative with Latin America, the Structural Impediments Initiative with Japan and the agreements granting Most -Favored-Nation treatment to the Soviet Union and Eastern Europe. In order to achieve some of these goals, the Administration obtained a two year extension of fast track authority from Congress.
- To implement the 1988 Omnibus Trade and Competitiveness Act ("1988 Trade Act"), the Administration made determinations under the Super 301 (trade liberalization priorities), Section 301 (unreasonable foreign government practices) and Special 301 (protection of intellectual property) provisions of the statute. In 1989, the Administration designated 25 countries for attention under the Special 301 provisions of the 1988 Trade Act. Of the eight countries judged to have the most egregious practices, half were Asian (South Korea,China, Taiwan, and Thailand). Yet another statute, Sections 1374 and 1377 of the 1988 Trade Act, required USTR to determine whether a country complied with telecommunications trade

agreements or otherwise denied mutually advantageous market opportunities to U.S. firms. South Korea and Japan were identified under these statutes and concluded agreements on telecommunications network equipment and cellular radio transmitters.

- Other long term goals included South Korean membership in the Organization for Economic Cooperation and Development (OECD), Taiwan's participation in the GATT, graduation of ASEAN countries from developing country status, and creation of a regional organization that could serve as a vehicle for improved economic cooperation in the Pacific Rim.

ASIA PACIFIC-SPECIFIC POLICIES

Japan

- In 1989, the Administration implemented for the first time the Super 301 provision of the 1988 Trade Act by announcing its trade liberalization priorities. These included Japanese barriers to satellites and supercomputers and Japanese forest products barriers. Sectoral discussions and negotiations were held with Japan on semiconductors. In construction services, Japan agreed to discourage collusive bidding, increase available information on projects to foreign bidders and not to interfere with company decisions to form joint ventures. Also in 1989, Japan signed a bilateral agreement to open the market for mobile communications systems. In 1990, Japan agreed to open government procurement of all satellites, except research satellites. In addition, the United States and Japan negotiated agreements on supercomputers, wood products, amorphous metals, sound recordings, and telecommunications.
- In 1991, antitrust investigations were undertaken in Japan on the paper, flat glass, auto and auto parts sectors. By April 1992, the two sides had signed a market access agreement on paper and paperboard products. In the same year, Japan committed to a number of specific actions to open its market for flat glass. Japan either resolved or established a process to resolve 49 discriminatory non-automotive standards, certification and testing procedures which had impeded market access for U.S. goods.
- In 1992, the U.S. and Japan renewed the Nippon Telephone and Telegraph (NTT) Procurement Agreement for a 3-year term.
- Structural Impediment Initiative (SII) talks were launched to address systemic barriers to competition and trade. SII talks covered six issues: savings and investment, exclusionary business practices, pricing measures, land use policies, keiretsu (a practice of formal and informal inter-firm ties) and the distribution system. Stated U.S. expectations included a "blueprint" for concrete structural change and a "down payment" of substantive first steps. A key milestone in this effort was reached in June 1990 with the issuance of the Joint Report of the U.S.–Japan Working Group on the SII. The Japanese Government commitments included: increased investment in public sector infrastructure, more vigorous enforcement of Japan's antimonopoly laws, the liberalization of the Large Scale Retail Store Law, and increased shareholder rights, among others.

- In October 1989, the United States and Japan renegotiated a voluntary restraint agreement on Japanese steel exports to the United States and concluded a bilateral consensus agreement dealing with trade distorting practices.
- The voluntary export restraint program, limiting shipments of Japanese autos to the United States, was extended through March 1990.
- The MOSS process of bilateral trade negotiations initiated in 1985 under the Reagan Administration turned toward monitoring the commitments and undertakings made.
- The U.S. government used a Section 301 petition filed by the U.S. shipbuilding industry against four shipbuilding countries including Japan to initiate a negotiation with OECD countries to eliminate subsidies to the industry.
- U.S.- Japan agreements on lawyers, beef and citrus, and market access for 2 categories of agricultural products were monitored to ensure implementation of the Agreement's provisions.
- In 1991, the U.S. and Japan concluded a new Semiconductor Arrangement to accelerate access for foreign firms to Japan's market and to deter injurious dumping. By 1992, the review of the Arrangement found that "insufficient" progress had been made by Japan to improve market access.
- Also in 1991, the two sides negotiated an agreement to provide expanded access for U.S. suppliers of computers (hardware and software) to the Japanese federal and local government markets. To implement this agreement, the countries met twice in 1992 with the U.S. side highlighting concerns with bidding procedures of the National Institute of Fusion Sciences.
- The United States and Japan completed a new and improved Major Projects Arrangement in 1991 improving access to the $26 billion Japanese construction market. The United States continued to monitor this agreement in 1992 and sought to add new products to the coverage list.
- In January 1992, President Bush visited Japan and received pledges from the Japanese auto industry to expand their purchases of foreign autos and parts by $10 billion over the next three years. This complemented a commitment by the new "Global Business Partnership", a group of 23 Japanese companies that agreed to increase their imports by $10 billion by 1993.
- Also in the same year, agricultural talks were launched to open markets for rice, citrus, corn feedgrains, and a variety of other products. These talks also advanced the dialogue on food safety.

China

- In 1989, the United States concluded a Memorandum of Understanding (MOU) with China to improve intellectual property rights protection. Pursuant to the memorandum, China agreed to introduce copyright legislation, including computer software protection.
- In January 1989, the United States signed an agreement with China on international trade in commercial space launch services. Two other related agreements were signed on technology safeguards and liability.

- In September 1989, the United States renegotiated and initialed a voluntary restraint agreement on steel.
- In 1991, USTR initiated two section 301 actions against China —- one on deficient protection of copyrights, patents and other IPR, and the other on market access barriers, including high tariffs, quotas, and non-transparent regulations. The IPR negotiations were resolved favorably in January 1992, when the United States signed an MOU with the Chinese Government to improve protection of copyrighted works, including computer software, sound recordings and trade secrets. Pursuant to the MOU, China joined the Berne Convention and the Universal Copyright Convention. China also amended and greatly improved its patent law and issued regulations for U.S. patented pharmaceuticals and agri-chemicals.
- The market access negotiations concluded in October 1992 with a commitment that China would remove significant non-tariff barriers. Approximately 75 percent of all import licensing requirements, quotas, controls, and restrictions were to be eliminated in two years. Also, as part of the agreement, China agreed to cut selected tariffs, to increase transparency of its trade regime, to curb import substitution policies and to eliminate standards and testing requirements as barriers to trade.
- In addition to the 301 investigations, the Customs Service and USTR investigated textile fraud and goods made with prison labor.

South Korea

- During this period, the Administration used Section 301, Super 301 and Special 301 to obtain market access with South Korea. In January 1989, South Korea agreed to provide foreign wine and wine producers with nondiscriminatory and equitable access to the South Korean market, terminating a Section 301 investigation. This was followed in May 1989 with an agreement to eliminate foreign investment restrictions, improve access for agriculture, and decrease protection for South Korean infant industries. By November 1989, South Korea announced that it would no longer justify its agricultural trade barriers in the GATT based upon "balance of payments" problems and would phase out these barriers. South Korea accepted a GATT panel ruling that its beef import restrictions were GATT inconsistent. In the same month, to avoid designation as a priority country under the Special 301 statute, the South Korean government created a task force to improve interagency coordination among its ministries on IPR and created an enforcement unit of police and prosecutors.
- Negotiations with South Korea in 1990 produced agreements on liberalization in the telecommunications sector and market access for beef; stronger enforcement of IPR; implementation of past agreements on cigarettes, wine, and elimination of agricultural quantitative restrictions; and resolution of standards issues affecting agricultural products.
- In 1991, the United States concluded agreements with South Korea providing significant additional market access for telecommunications services and obtained South Korean government commitments to eliminate anti-import rhetoric and actions, in line with the government's proposal to "internationalize" South Korea's economy. In February 1992, the United States and South Korea concluded a comprehensive telecommunications agreement, building upon understandings concluded in 1990 and 1991.

- To address a range of problems in doing business in each others' markets, the U.S. and South Korea agreed to establish the Presidents' Economic Initiative in 1992. The hope was to effect significant changes in South Korea's import clearance procedures, standards-making and regulations, investment and technology. The working group agreed to discuss issues such as land acquisition, the role of the South Korean Fair Trade Commission, off-shore financing and deferred payments for imports.

Taiwan

- The Administration also used the provisions of Section 301 of the Trade Act of 1974 to achieve significant market opening measures with Taiwan. Taiwan lowered tariffs and removed other trade restrictions as part of a four-year action plan and concluded a tariff agreement with the United States to increase access for U.S. beef. Additional negotiations resulted in increased licenses for U.S. insurance firms. The Administration continued to monitor Taiwan's enforcement of intellectual property rights.
- Consultations were held with Taiwan throughout 1991 in an effort to encourage Taiwan to bring its trade policy regime into greater conformity with GATT standards. Taiwan announced a Six-Year Development Program offering significant opportunities for U.S. firms to win procurement contracts for infrastructure improvements and telecommunications.
- Improvement in Taiwan's enforcement of intellectual property rights resulted in an understanding reached in June 1992. USTR revoked its designation of Taiwan as a priority foreign country but continued to monitor implementation.
- Consultations were held on maritime and intermodal transportation to enable U.S. carriers to own and operate trucking for land transportation of containers as part of the intermodal movement of cargo.
- In November 1992, the GATT convened the first meeting of Taiwan's accession working party, beginning the process of formally initiating Taiwan into the international trading system.

ASEAN

- The United States cooperated closely with the ASEAN members of the Cairns Group (Indonesia, Malaysia, the Philippines and Thailand) to improve the agricultural offers in the Uruguay Round. A high priority was placed on achieving the active participation of ASEAN in the Uruguay Round market access and financial services negotiations.
- In December 1990, the U.S. signed a memorandum of understanding with the six ASEAN governments to facilitate trade and investment. This memorandum established an annual ministerial-level trade meeting and a senior officials group to explore ways to enhance trade. The private sectors of both sides were allowed to participate in portions of the meetings.
- In 1989 and 1990, USTR used its Section 301 authority to initiate investigations against Thailand. Cases were brought against Thai cigarette restrictions and Thailand's failure to protect intellectual property rights. The cigarette case was resolved through an adverse GATT panel finding against Thailand. On IPR, Thailand undertook to increase raids and seizures on pirated products and to amend its patent law to provide product patent protection for pharmaceuticals.

- The United States and the Philippines signed a framework agreement in November 1989 lowering trade barriers, protecting intellectual property rights and addressing foreign investor concerns. However, by 1992, the USTR elevated the Philippines to the Special 301 priority watch list, in view of unresolved concerns with intellectual property laws and their enforcement.
- In March 1989, Indonesia signed a bilateral copyright agreement and in October, Indonesia's Parliament passed the country's first patent law. Indonesia also agreed to allow greater access for U.S. motion pictures through understandings reached in 1991 and 1992.
- In 1990, Malaysia agreed to adhere to copyright rules set up by the Berne Convention
- The United States and Singapore signed a Trade and Investment Framework Agreement, laying the groundwork for consultations and cooperation to expand market opportunities.

APEC

- The Asia Pacific Economic Cooperation forum (APEC), consisting of 12 Asia Pacific economies, held its initial meeting in Australia in 1989. The United States spearheaded an effort in APEC to coordinate Uruguay Round participation. Ministers met for a second time in Singapore to discuss broad issues of cooperation, including human resource development.
- The APEC process held its third ministerial meeting in Seoul and established principles for APEC's continued development as a forum for regional economic cooperation. China, Taiwan ("Chinese Taipei") and Hong Kong joined the APEC process, bringing APEC's membership up to 15.

1993-1995 THE FIRST CLINTON ADMINISTRATION

OVERVIEW

- In President Clinton's first foreign policy address on February 26, 1993, he characterized the greatest challenge facing this generation of Americans as the imperative of American leadership in the face of global change. Speaking of the need to compete in today's economy, the President said: "Open and competitive commerce will enrich us as a nation... And so I say to you, in the face of all the pressures to do the reverse, we must compete, not retreat."

The Administration set out several policy pronouncements as follows:

- Trade policy must be part of a coordinated and integrated economic strategy, since no amount of negotiating can overcome or offset the burdens placed on U.S. companies from misguided economic policies.
- The policy is oriented toward expanding trade through market opening measures backed by the rigorous enforcement of U.S. laws.
- The United States expects its trading partners to live up to their commitments so that their markets become comparably open. The expectation is that our trading partners should share

responsibility for maintaining and expanding the global trading system to a degree commensurate with their new economic strength.

- The United States will offer trade relief to its companies where appropriate, but will expect that, in return, those seeking relief undertake reforms designed to boost their future competitiveness.
- The U.S. will no longer automatically subordinate its economic interests to foreign policy or defense concerns. Our national security is closely bound up with our economic strength at home.
- Completion of the Uruguay Round and the North American Free Trade Area were assigned the highest priority as were bilateral and regional initiatives encouraging increased trading opportunities. Newer issues in trade policy — notably environmental protection, competition policy and technology policy — were to be addressed as integral parts of the agenda.
- The policy toward Asia Pacific centered on the realization that the region was virtually the only region of the world where economic growth was thriving. To ensure that U.S. producers and investors were able to take advantage of this growth, the U.S. government decided to secure improved intellectual property rights, market access for goods and services and reduced investment restrictions. The APEC forum was identified as a particularly promising new trade opportunity. At the same time, particular attention was focused on Japan and China as these countries represented roughly $83 billion of the $120 billion merchandise trade deficit in 1993.
- One year into the Administration, the United States enjoyed its most successful and important year in trade history. The Uruguay Round, after years of gridlock, was concluded. The NAFTA and its supplemental agreements on labor and the environment were approved by Congress. The NAFTA created the largest and most dynamic market in the world. In addition, the Framework for a New Economic Partnership was concluded with Japan in July 1993. The President also hosted a successful APEC leaders' meeting — the first-ever comprehensive meeting of Asia Pacific leaders — in Seattle. These two events culminated a year-long effort to expand trade with Asia.
- In the 1994 review of trade policy, the goal of the President's economic strategy was further defined as raising the standard of living of all Americans by creating high-wage jobs, sustaining healthy growth and stimulating investment in America's human and physical resources. Opening markets around the world was deemed critical to the achievement of this goal.
- 1994 was a year of historic agreements. Congress approved and the President signed the results of the Uruguay Round of multilateral trade negotiations, the broadest trade agreement in history. Duties on manufactured goods were reduced by one-third. When fully implemented, the Round Agreements were projected to add an estimated $100 billion to $200 billion to U.S. output. APEC leaders reached agreement to create free and open trade and investment by 2020 in the Asia Pacific. An equally historic event was the U.S.-hosted Summit of the Americas in Miami, which forged agreement among the nations of the hemisphere to create a Free Trade Area of the Americas.

- In the 1995 review of trade policy, the Administration announced that it had concluded over 180 trade agreements under the President's leadership and that these agreements were to be vigorously implemented, monitored and enforced. In three years, the Administration concluded 20 trade agreements with Japan. In the goods sectors covered by these agreements, U.S. exports to Japan grew by nearly 80 percent, nearly 2.5 times greater than growth in other U.S. exports to Japan.

1996 Events

- In 1996, USTR will create a permanent Monitoring and Enforcement Unit devoted exclusively to monitoring implementation of U.S. trade laws and trade agreements, determining compliance by foreign governments with their trade agreement obligations, and pursuing actions necessary to enforce U.S. rights under those laws and agreements. Priority will be given to: promoting high dollar, high volume U.S. exports; supporting U S. export industries; eliminating barriers that adversely affect job creation and existing jobs; eliminating barriers that are wide-spread and represent recurring patterns of export barriers covering many markets; and keeping small and medium sized U.S. businesses competitive.
- The WTO will hold its first ministerial conference in Singapore December 9-13,1996. The Agenda will involve areas for further negotiation, the report and recommendations of the Committee on Trade and Environment; and an Information Technology Agreement. New items that might be added to the Agenda include the relationship of trade to internationally-recognized labor standards; foreign direct investment ; competition policy and anti-corruption efforts in international trade, particularly in the area of government procurement.

ASIA PACIFIC SPECIFIC POLICIES

Japan

Framework Agreement

- Setting a trade policy with Japan, the United States' second largest customer and most challenging competitor, was one of the Administration's highest priorities. Among the many trade issues identified for action were: adherence to the Semiconductor Agreement; market access for autos, auto parts, insurance and other services; problems in government procurement including supercomputers, computers, major projects, and satellites.
- On July 10, 1993, President Clinton and then Japanese Prime Minister Miyazawa signed the United States-Japan Framework for a New Economic Partnership. The Framework represents a comprehensive approach to macroeconomic, sectoral and structural issues, aimed at addressing fundamental economic imbalances as evidenced by its persistent large trade and current account surpluses. The Framework commits Japan to pursue a "highly significant" decrease in its global current account surplus, and a significant increase in its global imports over the medium term. The United States committed to pursue a reduction of its fiscal deficit, promotion of savings, and a strengthening of its international competitiveness. In five "baskets"

of sectoral and structural issues, the Framework addresses major barriers encountered by foreign firms seeking to sell into the Japanese market. The baskets are: government procurement, regulatory reform and competitiveness, other major sectors such as auto and auto parts, economic harmonization and existing agreements and measures.

- Under the Framework, the Clinton Administration achieved significant trade agreements with Japan. Intellectual Property Rights (IPR) agreements were concluded on January 20 and August 16,1994. On October 1,1994, the United States and the Government of Japan (GOJ) announced agreements under the Framework in the priority sectors of government procurement of medical technology and telecommunications, including purchases by Japan's government-owned phone company (NTT), and insurance. At the same time, the United States and Japan reached agreement to open the flat-glass market in Japan. An agreement on financial services was announced in January 1995. In all of these agreements, the GOJ for the first time committed to using quantitative and qualitative criteria to evaluate the progress made. Outside the Framework, the U.S. and Japan reached agreements on construction, cellular phones and apples. Under the Uruguay Round, in addition to reduction or elimination of a wide range of tariff and non-tariff measures, Japan opened its rice market, harmonized chemical tariffs and reduced tariffs on copper.
- The Government Procurement Agreement on Telecommunications Products and Services (October 1994) included a set of five qualitative and five quantitative criteria and an annual evaluation of progress to assess implementation. Highlights of the Agreement included: use of international standards, where such exist; publications by entities of invitations to suppliers to express interest; and commitment to reduce the use of single tendering. The NTT Agreement resulted in an improvement in procurement procedures, adopting measures similar to those in the Telecommunications Government Procurement Agreement. The Medical Technology Arrangement, yet another agreement under the Framework, was designed to improve access to Japan's $2.5 billion government procurement market. A key element of the agreement is the requirement that Japanese procurement be made on the basis of overall greatest value instead of the current minimum price system. Reviews were done of these agreements in 1995 to assess the degree of market access.
- Following 15 months of intensive negotiations under the Framework, the United States and Japan signed an agreement to open Japan's insurance market. The GOJ committed to enhance the transparency of the regulatory system, strengthen the role of antitrust enforcement in the industry, and liberalize specific aspects of the insurance business. The GOJ agreed to deregulate in a three stage process. In addition, the GOJ agreed to avoid radical change in the "third sector" (where foreign companies are the strongest) until meaningful and substantial liberalization takes place in the life and non-life insurance sectors. The Japanese Diet passed a new Insurance Business Law in May 1995. This law provided the legal structure for many of the market opening commitments made by Japan under the Insurance Agreement, however, there was serious disagreement between the two countries over implementation of key provisions of the insurance agreement affecting the "third sector".

- On December 12, 1994, as a result of another Framework Agreement, the United States and Japan agreed to open the Japanese flat-glass market to foreign suppliers and to avoid discrimination based on capital affiliation. This market had been controlled by three Japanese firms for decades. The first semi-annual review of the Agreement revealed an increase in the purchase of U.S. glass in Japan, as well as the initiation of industry-wide surveys to measure the extent of use of foreign glass in Japan.
- On intellectual property, the two Framework Agreements achieved reforms of the patent application process and ended the practice of awarding dependent patent compulsory licenses, which force patent holders to license the use of their technology to competitors.
- In the area of financial services, the Framework Agreement removed impediments to market access for foreign financial providers in the areas of asset management, corporate securities and cross-border capital transactions. The agreement provided complete, unrestricted access to the $200 billion public pension fund market for investment advisory companies.
- During this time frame, Japan announced actions in line with its pledge under the Framework to significantly reduce its current account surplus. These included a 10-year, 630 trillion yen stimulus package, implementation of a 5.5 trillion yen income tax cut in Japan Fiscal Year 1995 and 1996, and a 3.5 trillion yen cut thereafter.
- Under the Framework, the United States and Japan discussed deregulation and competition policy. In November 1994, and again in November 1995, the U.S. Government submitted to the Government of Japan (GOJ) lengthy and detailed papers addressing specific deregulation, competition policy and administrative reform matters in Japan. Investment, buyer-supplier relationships and access to technology issues were the subject of another Framework dialogue. On investment, the United States sought action in six areas: government facilitation programs, tax incentives, deregulation measures, support for mergers and acquisitions, direct promotion programs and land and labor cost reduction. On buyer-supplier relationships, issues under discussion included: energizing and promoting industry-to-industry dialogue, supporting the development of Japanese corporate policy statements and codes aimed at promoting open and equitable dealings with foreign suppliers, and facilitating the joint investment and co-location by a group of U.S. firms in a "technology village" near Tokyo. In the access to technology talks, the U.S. sought better access to GOJ-sponsored research projects.
- On July 20, 1995, the U.S. and Japan finalized an Arrangement on Investment and Buyer-Supplier Relations. This arrangement is already beginning to help reduce the high costs foreign firms face upon entry.

Enforcement and Implementation of Agreements

- In April 1993, Japan was identified under Title VII of the 1988 Trade Act as a country which discriminates in its public procurement of architectural, engineering and construction services. Deadlines for imposition of sanctions were postponed twice as the GOJ devised an "Action Plan on Reform of the Bidding and Contracting Procedures for Public Works". Under the Action Plan, adopted in January 1994, the GOJ committed to adopt an open and competitive bidding system to replace the closed designated bidder system. The GOJ also agreed to eliminate requirements for project bidders to establish joint ventures, to strictly apply its Anti-Monopoly Law, and to adopt a comprehensive and effective complaint mechanism. Additional reform measures were announced in October 1995 by the Ministry of Construction. The Agreement and the competitive atmosphere that it fosters has contributed to the recent successes of U.S. firms on a number of new projects.

- On February 15, 1994, the U.S. Trade Representative found that Japan had violated Section 1377 of the Omnibus Trade and Competitiveness Act (dealing with telecommunications trade), by failing to honor a 1989 agreement to provide competitive access to the Japanese market for cellular phone service. Negotiations to resolve the issue were begun and preparations were made for taking sanctions. On March 12,1994, the United States and Japan reached agreement to provide U.S. technology access to the Japanese cellular market comparable to that enjoyed by Japanese technologies.
- On October 1,1994, the USTR announced initiation of a Section 301 investigation of the Japanese "aftermarket" for auto replacement parts. Discussions with Japan focused on three major areas: access to Japan's motor vehicle market, auto parts purchases in Japan and in the United States by Japanese motor vehicle makers, and deregulation of the Japanese auto parts "aftermarket". Following two years of intense negotiations to remove barriers in this market, in May 1995, President Clinton announced that he would impose nearly $6 billion in sanctions on imported Japanese luxury automobiles unless Japan agreed to open its market. On June 28, 1995, the two sides reached an historic agreement that promised significant market access based on 17 quantitative and qualitative objective criteria. In August 1995, the U.S. established a monitoring mechanism, involving an unprecedented degree of cooperation between the U.S. public and private sector.
- Japan's restrictions on market access for wood products and paper were identified as practices that might warrant future identification as priority foreign country practices under the provisions of Super 301. Other agreements monitored in 1994 and 1995 included: the Network Channel Terminating Equipment (NCTE) Agreement; the International Value-Added Network Services (IVANS); the U.S. - Japan Satellite Procurement Agreement; the U.S.– Japan Semiconductor Arrangement; the U.S.- Japan Government Procurement Agreement on Computers; the U.S. - Japan Wood Products Agreement; and the Amorphous Metals Agreement.
- In 1995, the U.S. became aware that Japan, in implementing its Uruguay Round obligations, had failed to adequately address the protection of pre-existing sound recordings. The U.S. consulted repeatedly with Japan and decided to initiate WTO dispute resolution proceedings, if protection was not forthcoming.
- The Clinton Administration has placed high priority on the challenge of building an equitable relationship with Japan and opening Japanese markets to competitive goods and services. The Administration's policy of achieving practical, market-based, "results-oriented" agreements produced 20 trade agreements, 12 of which came under the context of the 1993 Framework Agreement. With the growth of U.S. exports to Japan nearly five times as fast as the growth of imports, the U.S. trade deficit with Japan declined 9.7 percent during 1995.

- The Administration's top priorities for Japan in 1996 will include: implementation of the automotive agreement and other market access issues including semiconductors, film, deregulation and competition policy.

China

- The Administration began with a policy review of trade, human rights and weapons non-proliferation. The first issues to be identified with China were of a market-access nature. U.S. goods faced high tariffs, licensing requirements, and quotas. The Chinese system still lacked transparency in the promulgation and application of laws and regulations. Few services were liberalized. The United States led efforts to secure China's membership in the GATT in order to encourage China to adopt procedures and attitudes consistent with the rules of the international trading system.
- China reduced tariffs by an average of 50 percent on December 31,1993. Tariff cuts encompassed agricultural and manufactured products.
- By early 1994, the Administration announced its intention to be particularly vigilant about enforcement agreements signed with China in 1992. The ambitious intellectual property agreement was highlighted, given widespread and flagrant piracy. On June 30,1994, Ambassador Kantor authorized initiation of a Special 301 investigation into China's IPR enforcement policies and practices. The investigation focused on achievement of effective enforcement measures, structural changes in China's IPR regime, and market access for IP-based products. Piracy in China was rampant. More than 29 compact disc factories with a production capacity of 75 million CDs serviced a domestic market of 5 million CDs.
- By February 4,1995, after 20 months of negotiations, the USTR determined that China's IPR policies constituted a burden on U.S. commerce and pledged to impose 100 percent tariffs on $1.08 billion of China's imports if outstanding IPR issues were not satisfactorily resolved. As a result of a February 25,1995 agreement in which China agreed to take a number of measures to crack down on piracy and to provide U.S. right holders with enhanced market access, the section 301 investigation was terminated, the sanctions lifted and China's status as a priority foreign country revoked. However, compliance with this was uneven. The Chinese Government took steps to eliminate piracy at the retail level, conducting thousands of raids and destroying millions of pirated CDs, however, over 30 factories continued to produce illicit product. USTR held many consultations to assess effectiveness of customs enforcement, the level of investigation and prosecution of piracy and the level of penalties imposed and fulfillment of commitments to open the market to legitimate computer software, motion pictures, sound recordings and published product.
- The United States and China agreed to renew their bilateral agreement on international trade in commercial space launch services in January 1995. The renewed agreement limits the number of China's launches over the seven-year period of the agreement.
- In the area of market access, China implemented much of the 1992 Memorandum of Understanding, substantially reducing non-tariff barriers, for example, and publishing numerous regulations. However, China did not eliminate unscientific sanitary and

phytosanitary barriers to trade, nor published information related to products subject to quantitative restrictions. In 1995, China took additional steps pursuant to the MOU, such as eliminating non-tariff barriers, including quotas and licensing requirements on 543 items. Despite this progress, problems with additional non-tariff measures emerged such as registration requirements for electronic machinery products, the auto industrial policy, and requirements for the procurement of medical equipment. Problems with lack of transparency also affected market access. For example, U.S. companies faced a number of unpublished, "internal use only" regulations governing foreign trade.

- With the establishment of the WTO, China's accession negotiations expanded from the traditional GATT 1947 framework to encompass Uruguay Round results. Negotiations between China and WTO members reached an impasse in 1994 over negotiations on China's protocol commitments, the portion of accession dealing with adherence to WTO principles.
- The Administration's 1996 trade agenda for China will continue to focus on market opening for goods and services and creation of a better environment for investment. The Administration will concentrate on achieving full implementation of the 1995 Intellectual Property Rights Agreement, the 1992 Intellectual Property Rights Memorandum of Understanding, and the 1992 Market Access Agreements. Special emphasis will be devoted to the suppression of piracy of copyrighted materials, patented works and trademarks. On market access, the Administration will focus on phytosanitary issues, especially those affecting wheat and citrus fruit and barriers specific to such key U.S. industries as computers and telecommunications. At the same time, USTR will continue to strive for market access in the services sectors—especially insurance and value added telecommunications services. The Administration will insist that the terms of China's accession to the WTO be commercially viable and consistent with WTO provisions.

South Korea

- To address a range of problems in doing business in each others' markets, the United States and South Korea agreed to establish the Presidents' Economic Initiative. One of the first items of concern was South Korea's import clearance procedures. Another top priority was liberalization of South Korea's investment restrictions. Issues of taxation, competition policy and administrative procedures were also discussed during the one-year dialogue. The exercise was deemed a modest success by both countries.
- In 1993, the United States and South Korea concluded an agreement containing specific additional steps to open South Korea's beef market fully. The agreement strictly limits the South Korean government's involvement in regulating importation and distribution of beef. South Korea is the third largest market for beef exports.
- In October 1993, the United States began discussions on South Korea's formal and informal restrictions on motor vehicle imports which sharply reduce U.S. exports to

the sector. Discussions continued throughout 1994 when South Korea became the fifth largest motor vehicle manufacturer in the world, yet imported less than 1 percent of the cars sold in its national market. In September 1995, under the Super 301 review, the United States and South Korea negotiated a Memorandum of Understanding on Market Access for foreign passenger vehicles. South Korea agreed to lower its tariff to 8 percent, to liberalize financing restrictions to allow foreign participation of up to 49 percent, to modify their standards approval process, to increase TV advertising time and eliminate retail distribution restrictions.

- In November 1994, USTR accepted a Section 301 petition filed by the National Pork Producers' Council, the American Meat Institute and the National Cattlemen's Association. The petitioners maintained that despite three bilateral agreements governing access to the South Korean market, a number of South Korean practices, especially government mandated shelf-life limits and long delays at the port, effectively prohibited meat imports. The case was settled through consultations under the WTO dispute settlement process.
- In 1995, USTR decided to cite South Korea again on the Special 301 "priority watch list" due to ongoing large end-user software piracy; inadequate protection for well-known trademarks, trade secrets, textile designs and trade dress; a proposal to adopt a broad decompilation exception to copyright protection for computer software and inadequate enforcement. At the end of 1995, South Korea lowered all duties on computer software to zero; decided against the provision on decompilation and implemented its Uruguay Round obligations on intellectual property early.
- In 1995, South Korean practices were cited by a number of companies during the Section 1377 review. South Korea agreed in an exchange of letters to resolve several company specific problems, including allowing one major telecommunications company to bid in the 1995 procurement cycle. This procurement was postponed until early 1996.
- On June 1,1995, the Committee on Pipe and Tube Imports (CPTI) filed a Section 301 petition alleging that South Korea restricts exports of domestically produced steel sheet, controls domestic prices below world prices and restricts exports to the EU of pipe and tube products which were then diverted to the U.S. market. The petition was withdrawn once South Korea agreed to a consultative mechanism to increase transparency.

Taiwan

- Throughout the first year of the Administration, the United States urged Taiwan to bring its trade policy regime into greater alignment with GATT standards and to improve the enforcement of intellectual property rights. As a result of progress made, USTR revoked its designation of Taiwan as a priority foreign country under the Special 301 provisions of the 1988 Trade Act.
- The U.S. tabled aggressive market access requests of Taiwan in preparation for the accession negotiations for the WTO. Substantial progress in these negotiations was recorded in 1994. As part of the GATT/WTO accession, Taiwan is expected to render its IPR protection regime completely consistent with the TRIPs agreement.

- The United States and Taiwan initialed a Trade and Investment Framework Agreement early in 1994 which advances trade liberalization.
- Pelly Amendment sanctions were imposed on select wildlife products from Taiwan in August 1994 because of Taiwan's inadequate enforcement of prohibitions on trade in parts of endangered species of tiger and rhino. The annual value of the trade was estimated to be $22.4 million.

ASEAN

- In November 1993, the United States and the six members of ASEAN announced the creation of an "Alliance for Mutual Growth" (AMG), a joint government and private sector program designed to generate economic growth. This initiative was followed by meetings of trade ministers. AMG programs in 1994 included a high level "matchmaker" mission to bring together companies in the auto sector.
- By 1994, the six countries of ASEAN had accelerated implementation of their preferential trade arrangement to be fully implemented by 2003. Unilateral market opening was undertaken by the Philippines as part of an overall effort to improve competitiveness and attract investment.
- Progress on intellectual property rights with Thailand and the Philippines in 1994 removed an issue of major contention from the agenda, allowing the Administration to establish a range of approaches to addressing major trade concerns.
- In February 1994, the USTR announced that a worker rights review of Indonesia would be suspended (but not finally terminated). In November 1994, Indonesia announced a comprehensive industrial relations program designed to improve enforcement of labor laws and adherence to international standards. The Administration decided to monitor the implementation of this plan closely. In the same month, Indonesia issued ministerial decrees necessary to implement the 1992 film law; the decrees made it possible for the U.S. film industry to effectively access the Indonesian video market for the first time.
- In August 1994, USTR conducted a round of bilateral trade consultations in Malaysia on unilateral actions taken by Malaysia to raise duties. A dialogue on worker rights issues was also part of the consultations.
- In December 1995, the seven ASEAN members agreed to expand significantly the scope of the ASEAN Free Trade Area (AFTA) into new areas, such as intellectual property, services, investment, and non-tariff barriers. Most members of ASEAN took steps in 1995 to unilaterally lower their tariffs, both to other ASEAN members and on an MFN basis. In July 1995, Vietnam was formally accepted as the seventh member of ASEAN, joining AFTA but with an extra three years to bring tariffs down to the required 0 - 5 percent ad valorem levels.
- USTR made headway on a number of bilateral trade issues in ASEAN countries in 1995. Indonesia announced steps to improve its intellectual property laws to make them consistent with the TRIPS agreement. Indonesia also took action to implement its November 1994 action plan on industrial relations, which aimed at improving labor conditions in the country. Not all

aspects of the 1994 plan had yet been implemented. In May, Indonesia announced a comprehensive deregulation package to lower barriers to trade and investment. Malaysia was graduated from the Generalized System of Preferences, as it accounted for 27 percent of imports from all GSP eligible countries. In the Philippines, failure to implement its agricultural commitments under the WTO as required by July 1995, resulted in markets closed to U.S. imports. In December 1995, Singapore enacted a new patents law bringing it into compliance with the WTO intellectual property agreement. Thailand's new copyright law went into effect in this year, causing certain GSP benefits to be restored.

APEC

- By September 1992, APEC formally established a secretariat located in Singapore. Members agreed to rotate the chairmanship of the group among themselves. The United States chaired in 1993.
- At the U.S.-hosted APEC Ministerial Meeting in November 1993, ministers agreed to establish a Committee on Trade and Investment. The Ministers also reviewed and endorsed the report of the Eminent Persons Group, which had been commissioned by APEC to provide a medium to long-term vision for trade in the region. APEC completed an Investment Guide to the policies of its members and a Customs Guide. At Seattle, Mexico and Papua New Guinea joined APEC and it was agreed that Chile would join in 1994. A three-year moratorium on membership was also established.
- The first APEC Leaders Meeting, hosted by President Clinton, also took place at this time. APEC leaders issued a Vision Statement including overarching principles and goals and agreed to establish a Pacific Business Forum. Other issues agreed to by leaders included: an initiative to improve the competitiveness of small and medium sized businesses; an action program to integrate policies on economic growth, energy security and environmental protection and development of a non-binding set of investment principles.
- At the APEC meeting in Indonesia, held in November 1994, APEC leaders committed themselves to a vision of free and open trade and investment by the year 2010 for "industrialized" members and 2020 for "developing" members. As complementary steps, they agreed to expand and accelerate work on standards, investment principles, administrative barriers to market access, and to establish a "voluntary consultative dispute mediation service." The Leaders also called on APEC Ministers to develop an action plan to be reviewed at their next meeting in Osaka a year later.
- By 1995, the 18 economies that made up APEC accounted for more than half of world trade. More U.S. goods and services flowed to these dynamic economies than to any other region in the world. Sixty-three percent of U.S. merchandise exports went to other APEC members and APEC accounted for two-thirds of U.S. imports.
- Meeting in Osaka, Japan in November 1995, APEC leaders adopted a detailed "Action Agenda" for implementing Bogor goals of free and open trade and investment. The Action Agenda detailed steps to be taken in 15 issue areas, ranging from tariffs and non-tariff measures to government procurement and intellectual property rights. Active work programs continued in

such areas as customs harmonization and alignment of standards. In addition to the Action Agenda, APEC leaders announced a series of "initial actions" by individual APEC members that serve as a modest down payment on the Bogor commitment. These steps, which vary according to country, scope and nature, include: accelerated implementation of Uruguay Round commitments, tariff reductions on an individual or collective basis, and investment liberalization.

- APEC's Committee on Trade and Investment, established by Ministers in 1993, is the focus of APEC's Trade and Investment Work Program. Activities in 1995 included: completion of action plans in the areas of deregulation, dispute mediation, Uruguay Round implementation, investment, customs procedures, standards and conformance, and government procurement. In addition, the Pacific Economic Cooperation Council (PECC) produced a survey of regional trade impediments. Symposia were held on Investment and Customs to enhance cooperation between government officials and the private sector.
- During 1995, APEC convened meetings of Ministers responsible for finance, science and technology, telecommunications, small and medium enterprises and transportation.

Annex D: Summary of Barriers to Trade and Investment in the Asia Pacific Region

Overview

An important element of the Commission's mandate is to identify trade and investment impediments to U.S. business in Asia Pacific markets. The Commission has taken a broad approach to this task and has reviewed a wide variety of existing assessments of barriers to trade and investment in Asia Pacific, including those prepared by the United States Government (the Office of the U.S. Trade Representative and the U.S. International Trade Commission), the World Bank, UNCTAD, the Pacific Economic Cooperation Council and the Asia Pacific Economic Cooperation forum. It also supplemented these materials with information obtained throughout its work, including testimony, observation and discussions with U.S. government trade negotiators and American business representatives in the United States and in Asia.

It is clear from this survey of materials and information that the diversity that exists throughout Asia Pacific with respect to political, security and broad economic relationships is also apparent in the area of trade barriers. Levels of barriers, levels of commitment to and implementation of trade liberalization, the range of traditional market access barriers and those non-traditional barriers that occur primarily within markets all vary substantially in Asia Pacific.

As a general matter, Hong Kong and Singapore are the most open markets in the Asia Pacific region and among the most open globally. Brunei, Malaysia and the United States have removed most trade and investment barriers and are considered relatively open markets by most observers. Indonesia, South Korea, the Philippines, Taiwan and Thailand continue to have relatively restrictive regimes, although even within this set of countries, wide variation exists in the overall level of barriers, the sectors that are protected and the nature of the barriers. In Thailand, for example, the United States actually has preferential access vis a vis all other global investors as a result of a 1960 Treaty of Amity and Commerce. Japan, the only other fully developed economy in the Commission's region of inquiry, has substantially eliminated most barriers at the border, but retains extensive non-tariff measures, particularly within its borders. China, as an evolving "socialist market economy" and an applicant to the WTO, remains heavily regulated and substantially closed relative to other Asia Pacific economies in terms of norms of international trade behavior.

Important variations in levels of protection also exist between sectors. Trade in manufactured products is generally more open than that in agriculture or services. Within the manufacturing sector, the ITC has noted that processed foods, iron and steel, motor vehicles and parts, pharmaceuticals, textiles and apparel and certain machinery are widely protected in the region. Liberalization of trade in agriculture is in its early stages, particularly with respect to developing economies and with Japan and South Korea. Similarly, barriers to trade in services in Asia Pacific continue to impede access of services in which the United States has a comparative advantage, particularly financial services, telecommunications and professional services. Important progress has been made to provide effective legal protection in Asia Pacific for intellectual property, but enforcement of commitments is an ongoing concern throughout the world, and particularly in Asia Pacific.

Some steps have been taken in the last year to liberalize unilaterally or to otherwise contribute to liberalization through APEC or WTO initiatives. For example: Indonesia has offered to begin its tariff reduction schedule on an MFN basis for each year between 1995 and 2003 under the APEC framework; the Philippines has taken unilateral action in the area of standards and conformance by committing to align with international standards, provide mutual recognition of conformity assessment to foreign suppliers, and transparency of procedures. ASEAN's efforts to establish a free trade area (AFTA) by reducing or eliminating tariffs to a range of 0 to 5 percent and eliminate non-tariff measures by the year 2003 on all processed goods produced within the region has stimulated additional liberalization within Southeast Asia. Moreover, this competition for investment between ASEAN and non-ASEAN newly industrialized economies, such as South Korea, has also stimulated additional trade liberalization. Such efforts enhance the competition to liberalize in the national interest. In addition, sub-regional liberalization has benefitted parties outside the arrangements. Several ASEAN members have agreed to grant tariff liberalization provided to their ASEAN Free Trade Area (AFTA) partners to all other WTO members. Taiwan and China are preparing liberalization steps in their efforts to join the WTO. In both cases, some liberalization has already been implemented during the accession process.

Barriers at the border, such as tariffs and non-tariff barriers like customs practices, standards and conformance barriers, licensing restrictions and quantitative restrictions continue to exist in Asia. Work needs to progress multilaterally, regionally and bilaterally to further reduce and eliminate these barriers. The Commission believes that these barriers can be substantially addressed through existing mechanisms including the on going work of the WTO, the APEC liberalization process and selected bilateral negotiations and by capitalizing upon and stimulating trends such as the competitive unilateral deregulation and liberalization trends underway in Asia. It is for this reason that the Commission has focused its attention primarily upon non-traditional trade and investment barriers, those which are not yet addressed by multilateral disciplines, such as investment, and those experienced primarily, but not exclusively within markets, such as industrial targeting and anti-competitive practices.

Tariffs

Tariffs in some Asia Pacific economies have been reduced substantially in recent years through a combination of multilateral negotiations under the Uruguay Round, unilateral deregulation and multilateralization of sub-regional trading commitments. Asia Pacific tariff rates, for example, are lower than those in Latin America. Nevertheless, tariffs remain an important barrier to trade in particular products or sectors in a number of Asia Pacific markets, including China, Indonesia, South Korea, Malaysia, the Philippines, Taiwan and Thailand. As a general matter, applied tariffs in Japan, Singapore, Hong Kong and Brunei, are low, however, tariff peaks on individual products exist. South Korea, Taiwan, Malaysia, Indonesia, all have average applied tariff rates at or below 11 percent, while China, Thailand and the Philippines have average applied tariff rates between 20 and 40 percent.[1]

The Uruguay Round also increased the level of security and the transparency of market access barriers faced in Asia Pacific through a combination of increases in tariff bindings, the "tariffication" of quotas, and establishment of minimum access for agricultural products. However, not all Uruguay Round participants bound tariffs at applied levels. Many developing economies, including those in ASEAN, bound tariffs at ceiling levels above those currently applied. This permits them the flexibility to raise rates in the future, if necessary. It also adds to uncertainty in the terms of market access over time. Nevertheless, ASEAN members have expanded their efforts to reduce applied tariffs further since the conclusion of the Uruguay Round. Several ASEAN members that are participating in the ASEAN Free Trade Area process recently have committed to offering AFTA reductions on an MFN basis to WTO members. Most ASEAN member countries (Brunei, Indonesia, Malaysia, the Philippines, Singapore, Thailand) and other Asia Pacific economies (Japan, South Korea, Australia, New Zealand) also recently committed to further reducing or eliminating their tariffs on information technology products over the next few years in the context of WTO negotiations scheduled to begin in early 1997.

Rates on agricultural tariffs are generally higher than those for industrial products reflecting the recent character of comprehensive agricultural trade negotiations and the approach taken to ensuring gradual integration of the agricultural sector under global trade rules and disciplines. In particular, tariffs that have been subject to Uruguay Round negotiations to "tariffy" non-tariff measures often exceed those of the pre-Uruguay Round period because of the incorporation of the non-tariff component into the tariff calculation. Nevertheless, Japan is notable for its extraordinarily high new tariffs on some agricultural products, and its high post-Uruguay Round tariff averages in agriculture relative to other industrialized economies (12.58 percent).[2] Post-Uruguay Round average agricultural tariffs for Asia Pacific developing economies range widely from zero in Hong Kong to nearly 140 percent in South Korea, which negotiated agricultural liberalization in the Uruguay Round as a developing economy.

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[1] Source: U.S. Internation Trade Commission (see table 1)
[2] Source: USITC
[3] Source: USITC

High tariffs remain one of the most important barriers in several industrial sectors that are important to U.S. trade with Asia Pacific. These include textiles and apparel, processed foods, fabricated metals, transport equipment and machinery. Tariff peaks also are prevalent in certain agricultural products, notably dairy products, meat, wheat, rice, leather, fruits and nuts. Tariffs for several other sectors will benefit from Uruguay Round zero for zero initiatives and within the next decade will be reduced substantially or eliminated in a number of Asia Pacific economies. These include agricultural equipment, construction equipment, furniture, medical equipment, paper, pharmaceuticals, scientific equipment, steel and toys.

Non-Tariff Measures

Traditional non-tariff border barriers to trade also have been reduced somewhat over the past decade, as rules requiring the elimination of most licensing requirements and virtually all quantitative restrictions have been adopted, disciplines on subsidies and customs valuation,

Table 1

Summary of WTO Tariff Commitments by Asia Pacific Partners

	Trade -Weighted MFN Tariff Averages (Combined Industrial and Agricultural)	
	Current Applied Rates	WTO/Uruguay Round Commitment (Bound)
ASEAN		
Brunei	0.17	n/a
Indonesia	11.24	38.47
Malaysia	8.95	9.25
Philippines	20.74	20.89
Singapore	2.27	5.38
Thailand	35.54	28.30
JAPAN/SOUTH KOREA		
Japan	4.08	3.61
South Korea	13.88	15.97
CHINA, HONG KONG, and TAIWAN		
China	39.93	n/a
Hong Kong	0.0	0.0
Taiwan	8.94	n/a
UNITED STATES	4.7	3.16

NOTE1: USITC data is drawn from WTO's integrated database. PECC data is generally drawn from the APEC tariff CD ROM and represents simple rather than weighted averages. China and Taiwan did not formally participate in the Uruguay Round, therefore, China's informal UR offer is provided unilaterally at present; binding is tied to accession; Taiwan's rates were committed bilaterally. While applied rates in Asia Pacific are generally lower than bound rates, the calculations above compare final UR commitment rates with current higher applied tariff rates.

NOTE 2: This is based on country tariff submissions to the GATT in 1988 for Malaysia, Philippines, Thailand, Japan, South Korea, and Hong Kong in 1989 for Indonesia, Singapore, and the United States and in 1992 for Taiwan and China.

Sources: U.S. International Trade Commission and Pacific Economic Cooperation Council (PECC).
n/a = Not applicable

pre-shipment inspection and other barriers have provided greater transparency, gradual reductions or elimination of barriers and rules to assure non-discrimination. Efforts to minimize the trade distorting effects of standards and certification requirements are still in their infancy, but have lead to a number of initiatives to harmonize standards where possible or to develop "mutual recognition agreements" in other areas. Nevertheless, non-tariff measures are particularly difficult to completely eliminate; as one barrier is removed, traders and governments find other ways to protect their markets. Well intended measures designed for a particular purpose, for example, protection of the safety of consumers, if ill defined, can serve as non-tariff barriers to trade. Liberalization of non-tariff barriers, particularly those in Asia Pacific where administrative systems and latitude of officials is broader, requires on-going efforts to monitor markets access and close emerging gaps in global disciplines.

In addition to expanded disciplines on non-tariff barriers, the Uruguay Round ensured for the first time that all developing members were bound by the same rules and obligations undertaken by developed country members. Timetables for implementation of these obligations vary. Japan, as a developed country, is bound by commitments to implement Uruguay Round NTM disciplines within two years, developing economies generally are permitted to gradually phase in the disciplines over the next five to ten years, depending on the specific discipline. All developing Uruguay Round participants in Asia Pacific must implement UR disciplines on quantitative restrictions, subsidies, standards, customs valuation, safeguards, intellectual property rights and trade related investment measures within five years. Phasing out of quantitative restrictions under the Multi-fiber Arrangement will occur over a 10 year period. Japan, South Korea, Hong Kong and Singapore also participated in a separate plurilateral agreement on government procurement.

Barriers in agriculture were subject to new disciplines on agricultural subsidies, domestic supports and import access (quantitative restrictions). Participation by Asia Pacific economies in these disciplines varies depending on whether the economies were net importers or exporters, and whether they were developed or developing. But even some developed economies have excepted themselves in part from some obligations. Japan and South Korea, for example, have longstanding concerns about food security. They were permitted to more gradually liberalize trade in rice rather than immediately "tariffy" bans on rice imports. Developing Asia Pacific markets participated in agriculture liberalization, but have been granted additional time to phase in liberalization. Nevertheless, much work remains to liberalize trade in agriculture globally and in the Asia Pacific. Agriculture, by any measure, remains highly protected. Uruguay Round negotiations began a process of liberalization which will unfold in successive negotiations. WTO members already have agreed to commence further negotiations on agricultural liberalization in the year 2000.

Investment

Investment is increasingly seen as a positive contributor to globalization and integration of the economies of the Asia Pacific region. As business has expanded between economies within the region and with other trading partners, as growth has occurred and capital requirements have

Table 2

Summary Assessment of Levels of Traditional Non-Tariff Barriers in Asia Pacific Markets

Country	QRs	Customs	Standards Testing/ Certification	GP	IPR	Regs/ Business Practices	Investment
Brunei	S				S		S
China	M	M	M	M	M	M	M
Hong Kong							
Indonesia	S	S		S	S	S	S
Japan	S	S	M	M		M	S
South Korea	S	M	M		S	M	M
Malaysia	S			S	M	S	S
Philippines	S	S		S	M	S	S
Singapore							
Taiwan	S	S	S		S	S	
Thailand	S	S	S	S	M		

QR= Quantitative Restrictions
GP= Government Procurement, IPR = Intellectual Property Rights
S= Some remaining, significant impediments to trade and investment in sectors of interest to U.S.
M= Many significant impediments to trade and investment, especially in priority sectors
Blank= Few or no barriers
Source: U.S. International Trade Commission, USTR National Trade Estimates Report, USTR Special 301, Title VII and Super 301 Reports, 1996 and consultations with USTR negotiators.

expanded throughout the region, attitudes toward foreign direct investment have begun to change. Governments have begun to actively court foreign investment in many areas, often to meet certain development goals, such as enticing development to more remote sections of the country or to ensure employment in areas with few prospects for poor citizens, to obtain technology and to develop a skilled workforce to promote advancement of the economy.

Despite these changing attitudes, barriers to foreign direct investment are among the most significant challenges remaining in the Asia Pacific region. Many countries in the region have come from relatively recent colonial experiences and fear of dominance by foreigners in their economies. Others, such as Japan and South Korea, have longstanding traditions of limiting foreign investment and foreign influences in their cultures. With the exception of Hong Kong, investment barriers exist in virtually all other Asia Pacific economies.

The most important investment barriers identified by the Commission and by PECC include: sectoral prohibitions in access to investment; discriminatory processes and measures that distort the investment process, such as arbitrary or non-transparent procedures, national preferences, incentives and subsidies; trade-related investment measures such as local content, trade balancing and equity requirements and technology transfer requirements; difficulties in repatriating profits and a lack of access to arbitration in the case of disputes. Indonesia, South Korea, Malaysia, the Philippines and Taiwan maintain some local content requirements in some sectors. Negative lists prohibit investments in certain sectors in the Philippines, Indonesia, South Korea and China.

Neither levels of foreign direct investment nor the incidence of investment approvals are accurate indicators of investment openness. For example, foreign investment in South Korea has increased over the last two years. Nevertheless, American companies continue to indicate that South Korea is one of the most difficult markets in which to invest. Similarly, China has been actively soliciting investments in a number of areas or sectors and in the last few years has become the third largest destination of foreign investment in the world. Investment approvals have increased rapidly over the last five years, but many investors are becoming disenchanted with uncertainties and lingering delays in their efforts to invest in China.

Increased competition among Asia Pacific developing countries is leading to some investment liberalization, as these countries strive to fuel their own growth and to develop. Investment deregulation, streamlining and simplifying administrative procedures, reductions in lists of

Table 3

Incidence of Major Impediments to Foreign Investment

Country	Screening	Restricted Sectors	PRs	Fiscal/ Tax Incentives	Priority Sectors	Exchange Controls
ASEAN						
Brunei	X	X			X	X
Indonesia	X	X	X	X	X	
Malaysia	X	X	X	X	X	
Philippines	X	X	X	X	X	
Singapore	X			X		
Thailand*				X		
China (PRC)	X	X	X	X	X	X
Hong Kong		X				
Taiwan	X	X	X	X	X	X
South Korea	X	X	X	X	X	
Japan	X	X	X	X		

*** The U.S. has a special bilateral investment arrangement with Thailand through U.S.-Thailand Treaty of Amity and Commerce which provides preferential access to U.S. investors in the Thai market vis-a-vis other third parties.**

Source: Pacific Economic Cooperation Council, Survey of Impediments to Trade and Investment in the APEC Region (1995).

prohibited sectors and movements to investment regimes that are biased in favor of more openness in new sectors ("negative list" approaches) rather than a bias toward markets that are closed unless otherwise indicated ("positive list"), all have occurred over the last few years in Asia Pacific markets to some degree and with varying impact.

IPR

Creation of intellectual property is one of the strengths of American society that is derived from the creativity of American workers and the flexibility of our economy. Therefore, protection of intellectual property rights internationally represents one of America's top trade priorities. Intense U.S. efforts began in 1988 with the establishment of the Special 301 statute that mandated annual reviews of foreign IPR protection and negotiations to improve the structure of legal protection for intellectual property and the enforcement of IPR protection. These efforts have been supplemented with multilateral efforts to expand IPR protection through negotiation of the Uruguay Round Agreement on Trade-Related Intellectual Property Rights (TRIPs) and NAFTA disciplines on intellectual property. TRIPs commitments for developed countries were scheduled for implementation in January 1997.

Special 301 negotiations have been undertaken intensively in the Asia Pacific region for more than a decade and, in combination with the TRIPs agreement, have significantly improved the legal structure for IPR discipline in the region. In its 1996 Special 301 announcement, USTR reported progress toward improving IPR protection, including new laws and measures or commitments to improve copyright and industrial property protection in five Asia Pacific markets: Hong Kong, South Korea, Japan, Singapore and Taiwan. Some Asia Pacific economies continue to have relatively weak, though generally TRIPs-consistent, IPR laws that concern U.S. businesses. These include China, Indonesia, Japan, South Korea, the Philippines, Singapore, Taiwan and Thailand. Key issues of concern in these countries are insufficient disciplines on protection of patents, trademarks and trade secrets and the narrow scope and duration of patent protection, significant costs in obtaining protection.

Enforcement also has improved in some markets and for some types of intellectual property, such as copyright and patents. Nevertheless, enforcement continues to be a significant, on going challenge in Asia Pacific, as elsewhere. Enforcement of IPR protection has been a major source of trade friction between the United States and China over the last few years, and diversion of pirated products from China to Hong Kong and other Asia Pacific economies has undermined progress in enforcement achieved in some markets. Weak enforcement by continues to be subject to monitoring by U.S. Government authorities.

Table 4: Summary of 1996 Special 301 Report for Asia Pacific Countries

Priority Foreign Country *China*

The IPR Enforcement Agreement concluded in February, 1995 in Beijing, committed China to take strong measures to curb piracy — particularly of computer software, audiovisual works, patented works and trademarks. In addition, China committed to increased market access for computer software, motion picture, and sound recording companies. In April 1996, the United States designated China as a priority foreign country because the 1995 agreement was not being enforced effectively. In June 1996, the U.S. and China reached an accord outlining the steps China has and will take to implement the 1995 agreement and to provide market access. As a result, numerous plants have been closed, illegal material seized, and the number of cases taken to the Chinese courts has increased substantially. Despite the recent steps taken by China to eliminate IPR violations, much progress still needs to be made. Piracy at the manufacturing level remains high and underground factories producing pirated products continue to proliferate. Implementation of the 1996 Agreement is being monitored.

Priority Watch List *Indonesia*
Japan
South Korea

Key Problem Areas:

Indonesia: Enforcement actions generally need to be improved, in particular, those related to the imposition of deterrent penalties for computer software and book piracy. An action plan to improve enforcement efforts against copyright piracy and require government ministries to purchase only licensed software continues to be monitored. Protection of well-known trademarks also are reportedly a problem.

Japan: Discussions with Japan have continued throughout 1996 on several patent-related problems with respect to the uneven and overly narrow interpretation of patent claims in Japanese courts and concerns about patent "flooding" practices in Japan. These practices reportedly have limited the ability of U.S. patent holders in a range of industries. Concerns also remain about the inadequate protection of trademarks, trade secrets and end-user software piracy. The United States also filed a WTO dispute regarding Japan's failure to provide an adequate term of protection for pre-existing sound recordings produced between 1946 and 1971. Discussions are ongoing between USG and GOJ officials.

South Korea: South Korea continues to be a major concern with respect to enforcement of IPR protection for trade secrets, software, textile designs and trade dress. Implementation of administrative measures to enhance protection of well-known U.S. trademarks has required close monitoring as has end-user piracy of software. South Korea's legal system also failed [initially] to provide full retroactive copyright protection for pre-1957 works as required under TRIPs.

Watch List, "Out-of-Cycle" Reviews or Other Monitoring	Philippines Thailand Taiwan Hong Kong

Key Problem Areas

Philippines: USTR reported progress in improving IPR enforcement under a 1993 U.S. - Philippines bilateral IPR agreement. However, certain legislative commitments in that agreement and TRIPs had not been fulfilled. Progress in limiting use of pirated software by government agencies also has been monitored. Moreover, in October 1996, an "out-of-cycle" review under Special 301 indicated that computer software decompilation which limits reverse engineering of proprietary software has now been included in the Senate version of this legislation.

Thailand: Noted progress in advancing a modern copyright law was offset by ongoing concerns regarding declining enforcement activity, lack of a TRIPs consistent patent law and the need to ensure that deterrent penalties are imposed on convicted pirates. Because Thailand has recently taken steps to create legislation for the establishment of an IPR court, Thailand was not listed on the priority watch list for Special 301 review.

Taiwan: Taiwan has made significant strides in improving protection of intellectual property and was removed from a long standing place on the "Watch List" in 1996. However, the U.S. government continues to monitor Taiwan's domestic plans to improve enforcement against cross-straits and domestic piracy.

Hong Kong: Ongoing concerns regarding Hong Kong's efforts in combating the flood of pirated compact discs entering its territory from China and implementation of legislation to enable local prosecutors to pursue Hong Kong investors in pirate plants in mainland China have been the focus of U.S. government attention over the last year. Although Hong Kong is not officially listed as a priority watch list country, continued monitoring to facilitate legislative protection for IPR continues.

Source: Office of the U.S. Trade Representative, Special 301 Announcements 1996 and National Trade Estimates Report, 1995.

Services

While non-tariff barriers to trade in goods are difficult to fully eliminate, work in the GATT and WTO on such measures has been underway for several decades. Services have just come under WTO discipline with the conclusion of the Uruguay Round's General Agreement on Services (GATS). Broadly defined, the sectors covered include transportation, telecommunications, banking, insurance, media, utilities, retail, consulting and professional services. Negotiations on specific terms and conditions of market access for certain sectors covered under GATS, for example, financial services, telecommunications, shipping, and professional services, have been extended on several occasions or are subject to the WTO's on-going work plan (the "built-in-agenda"). Sectoral basic telecommunications negotiations, in which Brunei, Indonesia, Japan, South Korea, Malaysia, and the Philippines made important

Table 5

Overview of Industry-Specific WTO Services Commitments by Country

Services	U.S.	Japan	P.R.C.**	H.K.	Taiwan**	South Korea	Thailand	Indonesia	Malaysia	Philippines	Singapore
Distribution	X	X		X		X	X				
Education	X	X					X				
Telecom (value added)	X	X		X		X	X	X	X	X	X
Telecom (basic)***	X	X		X		X	X	X	X	X	X
Financial Services*	X	X		X		X	X	X	X	X	X
Audio Visual	X	X		X		X	X		X		X
Courier	X			X						X	X
Health Care	X	X					X		X		X
Accounting	X	X		X		X	X		X		X
Advertising	X	X		X		X	X		X		X
Legal	X	X					X		X		
Architectural & Engineering	X	X				X	X	X	X		X
Construction	X	X		X		X	X	X	X		X
Land Based Transportation	X	X				X	X			X	

Note: "X" denotes that the country has scheduled full or partial commitments in the WTO to provide market access and national treatment to foreign service providers. In the case of telecommunications, full or partial commitments may affect market access for international services and facilities, satellite services and facilities, foreign investment or regulatory principles.

*** Sector is currently under active negotiation**

**** Not a member of the WTO**

***** Commitments on Basic Telecommunications reflect results of the WTO Basic Telecommunications negotiations that concluded February 15, 1997.**

Sources: U.S. International Trade Commission and Office of the U.S. Trade Representative.

contributions, were completed on February 15, 1997. Barriers to services market access, therefore, continue to exist in many markets and key sectors of importance to the U.S. economy.

The GATS provides an overall framework for services trade that applies to all members, it provides more detailed rules and guidelines for individual sectors and it contains national commitments outlining foreign access to services industry markets in a manner somewhat similar to tariff schedules. Certain sectors, for example, air transport, are not fully incorporated in the agreement at this stage, but further work in this area is possible in the future.

In Asia Pacific, countries with fledgling service industries and traditional monopolies have been reluctant to liberalize barriers to services trade. Of the eleven economies included in the Commission's study, nine undertook specific service sector commitments, but the level of commitment varied substantially. Japan and the United States each committed to liberalize over 100 sectors; Hong Kong, South Korea, Malaysia, and Thailand agreed to liberalize between 60 and 80 sectors; Singapore and the Philippines committed to 30 to 60 sectors; and Brunei and Indonesia committed less than 30 sectors. The United States has not been particularly satisfied with the level of commitment to services liberalization by Asia Pacific economies and has endeavored to ensure Asia Pacific plays a greater role in finalization of sectoral agreements on financial services and telecommunications, in particular. Telecommunications' negotiations concluded satisfactorily on February 15, 1997 with full or partial commitments from Brunei, Indonesia, Japan, South Korea, Malaysia, the Philippines, Singapore and Thailand. Financial services negotiations are still underway. More work remains.

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