

WORKING GROUP II -- TRADE LIBERALISATION FINAL RECOMMENDATIONS

MULTILATERAL SYSTEM

The joint commitment of the EU and the US to uphold the multilateral process and to establish the WTO on a solid basis is crucial to the future of an open world trading system and healthy economic bilateral relationships.

- II.1 Both parties should work together to conclude current WTO initiatives within the timetable and to build the WTO into a strong, objective and decisive body.
- II.2 The EU and the US should maintain the momentum of the multilateral process by working together on a new agenda for further world trade liberalization. The first priority is to complete the unfinished business of the Uruguay Round.
- II.3 The US and the EU should fully implement the UR agreements, including the agreement on TRIPS, TRIMS and GATS.
- II.4 The EU and US governments should commit resources to develop joint recommendations for the future work programme of the WTO. A transparent process should be established for the business community to provide input on matters of mutual interest (such as harmonisation of non-preferential rules of origin).
- II.5 Both governments should ensure that all new regional arrangements by the EU and the US are WTO compatible, thereby effectively strengthening the multilateral trading system.

TARIFFS

- II.6 At the request of specific sectors establish transatlantic working groups to consider which, if any, UR obligations on tariffs or other matters can be implemented on an accelerated basis and to consider as well additional cuts or elimination of duties in sectors not now due to go to zero. Both sides cited European industry proposals for tariff reductions such as proposed by EECA for semiconductors and CEFIC for chemicals as models for bilateral industry collaboration leading to trade liberalization.
- II.7 The US and EU should come to rapid agreement, by the end of 1995, on compensation owed for tariff increases resulting from the accession of Austria, Finland and Sweden.

Information Technology Agreement (ITA)

- II.8** As provided in the ITA, both governments should make a commitment to conclude negotiations of the ITA by December 1996. Conclude an Information Technology Agreement between the EU and US. It is the view of the overwhelming majority that the ITA package should include a commitment to eliminate all tariffs by January 1st 2000 or sooner.
- II.9** The EU and US industries agree that they must co-operate on the development of a Global Information Infrastructure (G.I.I.) to remove as quickly as possible the market access barriers existing for Information Technology.

TRADE AND COMPETITION POLICY

- II.10** The EU and US should use existing comity procedures in antitrust enforcement.
- II.11** EU-US efforts to increase the exchange of information must proceed in consultation with business.
- II.12** The EU and US should develop convergent procedures to vet mergers.
- II.13** The US and the EU should agree to make worldwide "market access" for all companies, foreign and domestic, a priority objective. The EU and the US should seek harmonisation of strong and effective competition policies within WTO.
- II.14** The US and EU should actively support the OECD's efforts to establish multilateral guidelines for the development of competition policies that allow unimpaired market access for foreign goods, services, ideas, investments and business people, so that they are able to benefit from the opportunity to compete in a market on terms equal or comparable to those enjoyed by local competitors.

CUSTOMS ADMINISTRATION

- II.15** The US and the EU should make convergence and modernisation of customs practices, including improvements in information sharing and automation, a matter of high priority.

Specific steps to be discussed:

- establishment of a consultative process for foreign customs authorities within the framework of Customs 2000;
- collaborative effort to identify and follow "best customs practices";
- harmonization of required entry data, formats, and retention periods.

- II.16** The US and the EU should support the development and promotion of a model for an efficient and uniform customs administration, including for example, the initiatives of the World Customs Organisation (WCO) and the International Chamber of Commerce (ICC).
- II.17** Encourage EU and US governments to conclude WCO/WTO efforts to harmonize non-preferential rules of origin within agreed upon time frames.
- II.18** The US and the EU should improve the administration of current customs procedures in order to reduce the cost of Trans-Atlantic transactions, including examination of upward reclassification problems associated with changing technologies.
- II.19** The appropriate US and EU authorities should report to the mid-year 1996 US-EU Presidential meeting and to appropriate US-European business organisations on the most rapid timetable feasible for implementing a comprehensive model.
- II.20** The US and EU authorities should conclude a bilateral Customs Cooperation and Mutual Assistance Agreement.

PRODUCT LIABILITY

- II.21** The US and European business community supports the efforts to develop national product liability legislation in the US that should adopt principles of predictability, consistency and fairness.

TRANSPORTATION

- II.22** The US and the EU should lead the way in negotiating multilateral agreements on transportation services that provide for open access and operating flexibility both on a Trans-Atlantic basis and within the US and the EU with the aim of reducing transaction costs.

GOVERNMENT PROCUREMENT

- II.23** Governments should agree to implement fully existing commitments and obligations under the Government Procurement Code.
- II.24** In order to sustain open and equitable access for EU/US companies to the respective public procurement markets, the public procurement legislation should be expeditiously implemented and restrictions should be in line with art. 8 G.P.C.
- II.25** The US and European business community will identify existing national preferences in government procurement and develop recommendations for their elimination, where appropriate.

COMMON ELIGIBILITY FOR R&D PROGRAMMES

- II.26** The Transatlantic Business Dialogue should advocate conclusion of common eligibility standards to govern access to research and development programmes. National treatment should be the cornerstone of an agreement reached between the EU and US that is applicable in the US and the Member States of the European Union. Transatlantic business should urge governments to reach agreement by December 1996.

INTELLECTUAL PROPERTY RIGHTS

- II.27** The EU and the US should promote the effective protection worldwide of intellectual property rights by implementing and extending TRIPS and building on other initiatives including the G7 Business Roundtable Recommendations.
- II.28** The US should enter into discussions to determine whether the objective of introducing a first-to-file system in the United States would be appropriate in the context of a balanced package of improvements in patent systems outside the United States.
- II.29** The EU should reduce the costs associated with securing patent protection by reducing duplication of effort by sharing the task of patent search and examination between the US Patent and Trademark Office and the European Patent Office.

- II.30** The US and the EU should work closely together in bilateral plurilateral, and multilateral fora such as WIPO to ensure that the content transmitted over the Global Information Infrastructure is adequately protected.

TRADE AND ENVIRONMENT

- II.31** The US and the EU should work to establish common approaches to environmental issues through appropriate fora.
- II.32** The US and EU should not use unilateral trade measures (e.g. measures based on processes and production methods) as a means to impose their own environmental standards for risk management preferences on each other.

MONETARY STABILITY

- II.33** Better monetary stability should be fostered.

CONTINUING TRADE LIBERALISATION

- II.34** EU/US members of the working group II agreed that, after having studied a list of 11 different items related to trade liberalisation, EU and US governments, with the support of industrial experts, should take all possible measures to liberalise as much as possible, and in a step-by-step approach and in conformity with WTO provisions, the trade between US and EU.

This pragmatic approach should take into account following priorities:

- full implementation of the Uruguay Round and the unfinished businesses within WTO;
 - establishment at the request of specific sectors of Trans-Atlantic working groups to consider acceleration of Uruguay Round tariffs and other obligations, as well as additional tariff cuts;
 - gradual harmonisation of strong and effective trade and competition policies within WTO;
 - convergence and modernisation of customs practices including conclusion of a Customs Cooperation and Mutual Assistance Agreement; and
 - full implementation of government procurement commitment and obligations.
- II.35** - The US and the EU should through the existing channels undertake a joint study of issues in trade liberalisation, which should be distinguished from existing "trade barrier" reports in that it would identify targets for continuing

liberalisation. The US and European business community will produce an annual list of priority trade liberalisation needs.

- Business experts in specific existing organisations on both sides of the Atlantic should start consultations on the bilateral issues. They should be assisted by governmental representatives.

WORKING GROUP III -- INVESTMENT FINAL RECOMMENDATIONS

A. OPEN INVESTMENT REGIMES AND NATIONAL TREATMENT

EU and U.S. businesses have been able to succeed and to provide the engine of growth for the Atlantic area. Governments on both sides of the Atlantic have supported an open, stable environment for investment. Policies that have worked so well to our mutual advantage deserve to be recognized, enhanced, and commended to others as crucial to achieve economic and social progress.

Recognizing that foreign investment is critical for firms to compete in today's global economy and that benefits of foreign owned investment accrue to home and host countries alike, the TABD conferees urge the following:

- III.1** The U.S., the EU and/or its Member States should issue a comprehensive statement at the Madrid Summit that expresses their shared commitment to open investment regimes. This statement should reaffirm the commitment of the United States and the European Union to the principle of national treatment for investors and investments.
- III.2** The U.S., the EU and/or the Member States should work towards the goal of a multilateral agreement on investment that embodies the highest standards for liberalization and investment protection. This agreement should be concluded as soon as possible on a multilateral basis covering the widest number of countries.
- III.3** A multilateral agreement on investment should include:
 - a) a broad definition of investment;
 - b) the highest standards of investment protection;
 - c) the better of national treatment (NT) or Most Favored Nation (MFN) treatment;
 - d) provisions for non-discrimination among signatory countries to the agreement and strong Most Favored Nation (MFN) disciplines;
 - e) provisions for further liberalisations of the investment regimes, both upon entry into force of the agreement and afterwards;

- f) full transparency of the rules and of the remaining restrictions;
- g) an effective dispute settlement mechanism that will afford investors recourse against government actions; and
- h) provisions that bind subfederal authorities.

B. ISSUES NOT RELATED TO THE MULTILATERAL AGREEMENT ON INVESTMENT

- III.4** Taxation. The US, the EU and/or its Member States should reaffirm their intention to abide by the new OECD Transfer Pricing Guidelines, including at the sub-federal level, and to support private sector (BIAC) participation in a future OECD monitoring mechanism;
- III.5** The U.S., the EU and/or its Member States should restate their rejection of formulary apportionment;
- III.6** The U.S., the EU and/or its Member States should reject pressure from national legislatures to pursue discriminatory tax legislation, policies, and practices which discriminate against foreign companies.
- III.7** The U.S. the EU, and/or its Member States should review and modify their respective tax laws on the treatment of foreign earned income to encourage Trans-Atlantic investment.
- III.8** Monetary Stability. Recognizing that monetary stability is important to a good investment climate, the business community stresses the importance of improving the economic fundamentals that underlie monetary stability.
- III.9** R&D Access. The U.S., the EU and/or its Member States should work to improve access to each others' government funded, civilian research and development programs.
- III.10** Extortion and bribery. The U.S., the EU, and/or its Member States should fully implement the 1994 OECD Recommendations on bribery in international transactions. Follow up to the OECD recommendations should include review and change of relevant tax legislation, regulations and practices.
- III.11** Movement of people. The U.S., the EU and/or its Member States should review their existing immigration and/or labour law requirements and work

together to eliminate barriers to free movement of personnel and their immediate families for business purposes.

- III.12** Public Procurement. The U.S., the EU and/or its Member States should fully implement existing commitments and obligations under the WTO Code on Government Procurement. At an appropriate time, they should renew their efforts to eliminate the remaining procurement restrictions at the central and sub-central levels. In addition they should work together to encourage non-signatory countries to subscribe to the agreement.
- III.13** National Security. National security exceptions should be limited, narrowly prescribed, and implemented in a manner consistent with the intent and spirit of an open investment regime.
- III.14** Reports To Business. Six months after the Seville Conference, officials of the European Union and the United States should report on the responses of their governments to the recommendations provided to them by the participants in the Trans-Atlantic Business Dialogue on November 11, 1995.
- III.15** The business communities of the United States and Europe should monitor the progress made with respect to these U.S. and European recommendations on investment through appropriate, existing business channels.

WORKING GROUP IV -- THIRD COUNTRY ISSUES FINAL RECOMMENDATIONS

IV.1 Introduction

The United States and the EU should, in future trade discussions, make use of the unique and important consultative opportunity provided by the TABD to take into account the views of the private sector on trade and commercial policy issues.

IV.2 Government Procurement

Serious efforts should be made by the EU and the United States in order to expand the adoption of the WTO Agreement on Public Procurement to countries whose public procurement practices remain closed. Specific emphasis should be placed upon transparency, effective implementation and enforcement in their domestic legislation and regulations of all the Agreement's provisions.

IV.3 International Customs Standards

The World Customs Organization and the International Chamber of Commerce are currently working to develop international customs models that will set norms and standards for customs procedures. The United States and the EU, together with United States and EU business communities and interested trade associations, should support these efforts. The United States and EU business community can also play an important role by bringing customs abuses to the attention of the appropriate government agencies.

IV.3a The United States and the EU should consider identifying those elements to receive priority and working in concert to promote adoption of those elements. Important elements that could be adopted in the near term include greater transparency, the Harmonized Tariff System, and the WTO Valuation Agreement. For example, pre-shipment inspection procedures should not be used to jeopardize and restrict trade. APEC negotiations have created an opportunity to promote the elements of the ICC model.

IV.4a Intellectual Property Rights

The United States and the EU should together push for complete implementation and enforcement by other countries of the Uruguay Round agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) and for its extension to countries that are not currently signatories to the accord.

IV.4b The United States and the EU should seek to ensure the closing of the gaps in the coverage of the TRIPs agreement (such as the permissible exceptions from patent coverage for plant and animal varieties and the escape clause for protecting confidential

information) as TRIPs is extended to other countries. This is particularly important for countries where IPR violations are rampant in key sectors and national laws are either weak or not enforced. United States and EU business executives and appropriate trade associations should bring to the attention of appropriate government agencies specific concerns about violations by third countries of intellectual property rights and make suggestions for improving their enforcement.

IV.4c The United States and EU should also strongly encourage advanced developing countries to accelerate the implementation of the TRIPs Agreement rather than taking the full transition period.

IV.5 Corruption and Bribery

The EU and the United States should give the highest priority to collective efforts to combat corruption and bribery, and fully support the prompt implementation of the 1994 OECD Recommendation on Bribery in International Transactions, including appropriate legislation aimed at eliminating illicit payments, extortion and bribery, and including sanctions against such practices.

IV.6 Export Controls

The United States and the EU should provide all necessary support for the New Forum and take into account the views expressed in the joint business position adopted in July 1995 when the New Forum was developed. Industry emphasizes that the "New Forum" should be implemented quickly to limit post-COCOM uncertainty.

IV.6a History has shown that unilateral sanctions are not effective. The United States and the EU should avoid using unilateral sanctions and should establish an international consultative process on the use of trade barriers or economic sanctions as mechanisms for forcing change in the proliferation policies and actions of third countries. The objective of such a consultative process would be to encourage effective multilateral cooperation and discourage extraterritorial application of unilateral measures that violate international norms.

IV.7 Labor, Environment, Human Rights

Regarding human rights and labor protection, careful attention should be paid to differing cultures, social structures and levels of development. Legitimate questioning of certain practices (child labor, absence of social protection, etc.) should not be construed and used to impose additional restrictions and barriers to trade from those developing countries.

IV.7a Regarding trade and environment, given that the WTO is working on these problems in preparation for the next ministerial meeting, to be held in Singapore in December, 1996, we acknowledge that the WTO is the right forum to discuss these matters and that the

voice of businesses and business associations should be taken into account. Environmental issues also should not be used as protectionist measures.

An important source of financial resources in the developing world is the World Bank. The United States and the EU should encourage the Bank to balance the economic and environmental issues in its decision making process on loans to less developed countries.

IV.8 Accession of new members to WTO

The United States and EU should require that all new countries that seek to accede to the World Trade Organization do so on commercially viable terms. At the same time, the United States and EU should provide the technical assistance that these countries require in the course of the accession process.

IV.8a The United States and the EU should seek to harmonise their policies and adopt a commercially pragmatic approach towards the admission of new countries to the WTO, since these countries are going to represent a significant part of world trade in the near future. Their accessions should respect the rules and principles of the WTO on all matters, especially regarding their policies on investment, services, industrial planning, intellectual property rights, and trading rights. These countries should also have comprehensive and commercially acceptable tariff schedules.

IV.9 Trade and Competition Policies: The United States and the EU should support work in the OECD toward the "international contestability of markets"-- markets that allow unimpaired market access for foreign goods, services, ideas, investments and business people--so that they are able to benefit from the opportunity to compete in a market on terms equal or comparable to those enjoyed by local competitors.

IV.9a The United States and EU should urge all countries to agree to make market access a priority in applying competition laws and regulations. This should apply also to those OECD countries which still allow anti-competitive practices on the part of their companies competing on world markets. All countries should be encouraged to examine the structure and application of their competition policies in order to identify means to improve market access.