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Attached is our review of the U.S. Uruguay Round implementation bill and Statement of Administrative Action. It is an overview of the legislative and regulatory changes resulting from the new Act, highlighting those elements of greatest interest to Canada. The document is also being distributed to provincial and select private sector contacts.

Congress is scheduled to re-convene for a "lame duck" session to vote on the Uruguay Round implementing bill. The House of Representatives will vote on November 29, while the Senate will consider the legislation November 30 and vote on December 1. This will still permit legislation to be passed for a January 1, 1995 entry into force of the World Trade Organization.

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EXT 407 (93/12)

REPORT ON U.S. URUGUAY ROUND IMPLEMENTING LEGISLATION

This report summarizes the U.S. legislation introduced to implement the results of the Uruguay Round Agreements (UR Agreements). The legislation is arranged into seven titles and this report follows the order in the legislation. The U.S. bill is designed to institute changes to U.S. law where necessary to implement the new agreements. Along with the legislation, there is a "Statement of Administrative Action" (SAA) that is described as "an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements". The SAA sets out the U.S. view on many aspects of the UR Agreements.

TITLE I

APPROVAL OF, AND GENERAL PROVISIONS RELATED TO, THE URUGUAY ROUND AGREEMENTS

Entry into Force

The bill provides the President with the power to determine when a sufficient number of countries have agreed to implement the UR Agreements to ensure the WTO will operate effectively, and that there will be adequate benefits to the U.S. from the WTO. The SAA specifically mentions that EC, Japan, Canada and Mexico, as well as other key developed and developing countries, must commit to the WTO in order for the President to allow the WTO to enter into force for the United States. The proposed date of entry into force is January 1, 1995.

In the U.S., unlike some other countries, the UR Agreements are not self-executing. The bill reinforces this by outlining that provisions of U.S. law that are not addressed by the bill are left unchanged. The bill makes reference to the fact that nothing in the Act can be construed to amend or modify laws to protect: human, animal or plant life or health; environment; worker safety; or to limit 301 authority unless specifically noted.

The bill provides for a federal/state consultative framework that describes steps the USTR is required to take when a sub-federal measure is challenged. These steps include consultation with the Congress and the state(s) whose measures are at issue.

Tariff Modifications

The bill provides the President with authority to proclaim changes to the U.S. tariff schedule necessary to implement tariff changes negotiated in the Uruguay Round. The SAA indicates that the U.S. intends to withdraw from the GATT

1947, which is legally distinct from the GATT 1994 in the WTO. The bill allows the tariff benefits of the WTO to be extended to countries not yet in the WTO. However, the President has the authority to withhold tariff benefits from a non-WTO member if that country is not "according adequate trade benefits to the U.S.". The WTO duty levels would apply when that country joins the WTO.

UR Implementation and Dispute Settlement

WTO

The creation of the WTO brings all UR Agreements under a single organization and allows for strengthened dispute settlement. The bill sets out the U.S. view that the WTO should continue the GATT practice of decision-making by consensus and has a requirement that the Administration consult with Congress before significant votes are taken (e.g. on amendments to the Agreement, granting of waivers and the accession of new Members). The bill provides for an annual report, and allows Congress to review U.S. participation after 5 years at which time the U.S. could decide, by a joint resolution, to cease to be a member of the WTO.

DISPUTE SETTLEMENT

The WTO dispute settlement system strengthens the mechanism for enforcing the new trade rules. It provides for a tighter timetable for disputes, and will not allow any one country to block adoption of panel reports. This is especially important in trade remedy cases, where it was common practice to block panel reports. Other changes include an integrated dispute settlement system and the possibility for the authorization of cross-retaliation (e.g. withdrawal of concessions in the goods area if a services obligation has been breached). The U.S. legislation establishes procedures for the implementation of binding WTO panel or appellate body findings. Under current law, there is no such procedure. By virtue of this bill, Congress is given increased oversight of the implementation of panel reports, including an annual report to Congress by the USTR.

TRANSPARENCY AND ADVISORY COMMITTEE PARTICIPATION

The U.S. bill and SAA include direction to the Administration to seek agreement among WTO members to allow increased transparency in the WTO, including access to meetings of the Ministerial Conference and General Council, and to the dispute settlement process. The legislation has provisions to include representatives of non-governmental environment and conservation organizations on the Advisory Committee for Trade Policy and Negotiations (ACTPN) to advise on environmental aspects of trade agreements generally. The Administration has

stated in the SAA its intention to seek the views and advice of the ACTPN and the environmental policy committee with respect to environmental issues associated with trade policies or trade agreements

ADMINISTRATIVE ACTION FOLLOWING WTO PANEL REPORTS

The bill provides for administrative action following panel reports. In addition to increased consultation with Congressional committees, there are provisions that the Administration may request the ITC to review panel/Appellate Body decisions where the U.S. has been found in violation of its obligations under the Safeguards, Subsidies or Antidumping Agreements, and to issue a determination that would render its actions "not inconsistent" with the finding. The USTR is to consult with the appropriate congressional committees before any USITC determination is implemented. There are similar provisions relating to the Department of Commerce (DOC).

OBJECTIVES FOR EXTENDED NEGOTIATIONS

In the area of worker rights, the Administration is instructed to seek establishment of a working party to examine the issue. The U.S. objectives for the working party include:

- explore links between international trade and internationally recognized worker rights;
- examine the effects on international trade of the systematic denial of such rights;
- consider ways to address such effects; and
- develop methods to coordinate the work of the working party with the ILO.

In other areas of ongoing negotiations, the U.S. objectives include:

a) Financial Services- seeking commitments to reduce or eliminate barriers that deny national treatment or market access;

b) Basic Telecommunications- obtaining an opening of foreign markets on nondiscriminatory terms; and

c) Trade in Civil Aircraft - obtaining competitive opportunities comparable to those afforded foreign products in the U.S., reduce or eliminate tariff barriers, and increase transparency in foreign subsidy programs.

TITLE II

ANTIDUMPING AND COUNTERVAILING DUTY PROVISIONS

The Anti-Dumping Agreement contains a series of modifications to existing anti-dumping practices under the GATT, covering such matters as who is entitled to file a complaint, a "sunset" clause limiting the duration of anti-dumping cases, and more transparent procedures for conducting anti-dumping investigations.

GENERAL PROVISIONS

PETITIONS

The legislation makes provision for the notification of governments named in the petition, a prohibition on accepting unsolicited communications from outside parties prior to the administering authority's decision to initiate an investigation, and specifies that information with regard to a draft petition submitted for review and comment shall not be disclosed before that petition has been formally filed. The SAA notes that these amendments were made to parallel current U.S. practice.

The legislation requires that the Department of Commerce (DOC) examine the accuracy and adequacy of the evidence provided in the petition to determine whether it is sufficient to justify initiation of an investigation. The DOC must determine, prior to the initiation of the investigation, if at least twenty five percent of the total domestic production of the like product support the petition. In addition, support for the petition must be expressed by fifty percent of the firms expressing support for or opposition to the petition. In making this determination, the DOC will better establish the support or opposition to a petition than current U.S. law which presumes that a petition is filed on behalf of the domestic industry unless producers accounting for a majority of U.S. production of a like product object.

The US ITC shall determine whether there is reasonable indication that an industry in the U.S. is materially injured, is threatened with material injury, or the establishment of an industry in the U.S. is materially retarded as a result of imports. These provisions also detail amendments to the timing requirements for the USITC's determinations, notification requirements, and the grounds for the investigation to be terminated.

PROCEDURAL ISSUES

The legislation includes the following provisions that could result in lower anti-dumping margins:

a) a countervailing or anti-dumping duty shall not be applied if the margin is below 2% (de minimus). Previously the de minimus margin was 0.5%. New de minimus standards apply only to new investigations, not to administrative reviews;

b) changing the minimum threshold for disregarding sales below costs in an anti-dumping investigation (from ten to twenty percent of total sales);

c) the normal value/export price comparison will be made on the basis of either average-to-average or transaction-to-transaction. Under current U.S. law, average normal values are compared to individual export prices in calculating a dumping margin;

d) the use of actual expenses and profits in constructing "normal value" in an antidumping case, replacing mandated percentages of ten and eight percent respectively;

e) adjustments for start-up costs, including fixed and variable costs, calculated at the end of start-up period;

f) adds additional criteria in determining whether home market sales are viable as a basis for comparison, including the use of 5 per cent of U.S. sales as a standard.

Provisions in the anti-dumping section of legislation that could be a cause of concern are:

a) Export Sales Price

A change in the method of calculation of the export price at which merchandise is first sold after importation. Calculating the exporter's sales price will require a deduction for profit in sales between related parties without a comparable deduction on home market sales.

b) Anticircumvention

Although there was not agreement in the Uruguay Round on disciplines on anticircumvention, the U.S. legislation will expand the current U.S. anti-circumvention provisions, which were set out in the 1988 trade bill. In particular, these changes are aimed at dealing with the importation of products which may be produced with inputs already subject to dumping orders. It also expands the authority for anti-circumvention action covering goods assembled in both the U.S. and third countries where the DOC considers the process of assembly or completion to be minor or insignificant.

SUBSIDIES PROVISIONS

COUNTERVAILABLE SUBSIDIES

The Agreement on Subsidies and Countervailing Measures contains, for the first time, an internationally-agreed definition of subsidy. Certain types of subsidy, particularly those for regional development, the environment, and research and development, are not to be subject to countervailing duties, provided that they are administered in a way that is consistent with the agreement. These provisions on "green light", or non-actionable subsidies expire in five years unless there is an agreement to extend it.

The implementing legislation includes new definitions of actionable and non-actionable subsidies. The legislation also reflects the new internationally-agreed criteria for the notification and protection of non-countervailable subsidies. It also establishes that the DOC cannot investigate subsidies that have been notified as non-actionable to the WTO Subsidies Committee unless they have been challenged and overturned through WTO procedures. Provisions has also been made specifying that the U.S. can agree to an extension of the agreement pertaining to non-actionable subsidies only upon legislative approval by Congress.

SPECIFICITY

The legislation allows the DOC to use only one of the four specificity factors in determining countervailability provided that all four factors are considered. The four factors are: a) extent to which Government acts to limit availability of the program; b) number of users; c) whether any users receive benefits in dominant or disproportionate way; and, d) whether Government exercises discretion in awarding benefits. The language on specificity is consistent with current U.S. practice.

EFFECTS TEST

The legislation changes existing law by directing that the DOC need not consider the "effect" of a measure in determining whether it is a subsidy. In describing this change, the SAA makes reference to Canada's softwood lumber case, and states that the Administration "wants to make clear its view that the new definition of subsidy does not require that Commerce consider or analyze the effect (including whether there is any effect at all) of a government action on the price or output of the class or kind of merchandise under investigation or review."

INJURY AND PROCEDURAL ISSUES

Captive production

The legislation potentially narrows the amount of domestic production that can be regarded as being part of the domestic market. This may result in an increase in the possibility of injury or threat of injury being found. However, the legislation places significant limitations on the use of the concept. These limitations include consideration of whether the product that is internally transferred does not enter the market, the product is the predominant input in the production of the downstream article, and the product sold in the market is not generally used in the production of the downstream article.

Sunset Reviews

As required by the agreement, the DOC will be obligated to terminate its anti-dumping/countervailing duty orders after five years unless it can demonstrate that there will be a recurrence of dumping/subsidy and injury. The legislation sets out the procedure for participation in the reviews. For example, if there is no response from the domestic parties, the DOC will revoke the order. In the case of countervailable subsidies, if a foreign government waives its participation in the review, the DOC will conclude the subsidies are likely to continue or recur.

Administrative Reviews

The DOC will be obligated to complete administrative reviews of dumping or countervailing duty within 12 to 18 months. Under current U.S. law and practice, there is no deadline for the completion of such reviews. This often results in delays of up to three years.

Sampling/Individual Rates

The DOC will now be required to investigate and assign individual margins of dumping or subsidy to as many exporters as is practicable. Currently, only exporters representing 60 percent of the exports are investigated. All others are given a rate based on the weighted average rate.

Best Information Available

The DOC will no longer base "best information available" on petitioners' allegations but will be required to seek independent sources of information in invoking the "best information available" option. "Best information available" is used when an exporter either does not cooperate or provides unverifiable or incomplete information.

ENFORCEMENT OF U.S. RIGHTS UNDER THE SUBSIDIES AGREEMENT

The legislation provides the means for enforcement of U.S. rights under the Subsidy Agreement, establishes a mechanism for reviewing the operation of provisions in the Agreement relating to green light subsidies, and facilitates dispute settlement proceedings brought under the Subsidies Agreement.

The SAA notes the Administration's intent to coordinate countervailing duty law with its rights under the Subsidies Agreement. Accordingly, the bill provides authority for retaliatory action by the U.S. against foreign measures. For "red light" subsidies, which are expressly prohibited by the Subsidies Agreement, the SAA notes that, where a foreign country does not implement a dispute settlement decision within the allotted time and the dispute settlement body authorizes retaliation, existing section 301 provisions provide the needed domestic authority to carry out the retaliation. The bill also provides authority for USTR to take action under section 301 on "green light" (non-actionable) subsidies, if a foreign country does not comply with recommendations of the Subsidies Committee. The bill sets out that action may be taken if the Committee authorizes countermeasures, or if a Committee recommendation is blocked.

TITLE III

SAFEGUARDS

The Safeguards Agreement interprets and strengthens the provisions of GATT Article XIX by establishing control over safeguard actions and by eliminating "grey area" measures such as orderly marketing arrangements. Actions are meant to be non-discriminatory although selective actions are possible. Safeguard provisions permit a country to impose import restrictions to provide temporary relief when increased imports are found to cause or threaten to cause serious injury to a domestic industry. Recognizing that countries will resort to such actions, the Safeguards Agreement clarifies the circumstances under which they may do so and establishes rules and disciplines to take actions, such as;

a) determination of injury (including threat of injury) and increasing imports;
b) procedures to ensure transparency (including a public investigation and published reports);
c) four year duration with an extension of another four years following an additional investigation;
d) expedited procedures that may be applied in "critical circumstances", including special provisions for proceedings

concerning imports of perishable products;
e)"degressivity" (progressive liberalization of safeguards restrictions during the period in which actions are in force);and
f)the right to re-impose safeguard restrictions at a later date.
g)consultation and retaliation after a measure has been in force for three years.

The U.S. Administration views current U.S. law as largely consistent with the Safeguards Agreement. Implementing legislation is largely devoted to procedures pertaining to the investigation, determination, and Presidential actions.

FOREIGN TRADE BARRIERS AND UNFAIR TRADE PRACTICES:

SECTION 301

Section 301 gives the USTR authority to conduct investigations into another country's trading practices. If those practices are found to be "unfair", the bill authorizes the U.S. to retaliate unilaterally by imposing sanctions against the offending country, pursuant to a prescribed process and timetable. The new WTO Dispute Settlement System constrains the U.S. ability to use 301 as a unilateral instrument in cases where the UR Agreements apply. The legislation is consistent with the agreement and recognizes that the U.S. must allow the WTO Dispute Settlement Body to rule on an issue first. The bill also codifies the March 1994 Executive Order which reinstated and modified "Super" 301. Included in the modifications was a redirection to the identification of specific intellectual property laws and practices of a foreign country from the previous approach of only identifying the country.

UNFAIR PRACTICES IN IMPORT TRADE: SECTION 337 (ACTIVITIES IN RESPECT OF IMPORTS ALLEGED TO INFRINGE U.S. INTELLECTUAL PROPERTY RIGHTS)

Changes to Section 337 were required to meet GATT, TRIPS, and NAFTA obligations. A 1989 GATT Panel determined, inter alia, that Section 337 violated U.S. GATT obligations by providing different procedures for claims against foreign defendants than were provided for domestic defendants. U.S. commitments under the TRIPS Agreement and NAFTA, in addition to reflecting those in GATT, provide for administrative proceedures to be in conformity with principles equivalent in substance to those provided in judicial proceedings. The legislation does not, in our view, bring the U.S. into full compliance with its international obligations. However, it has reduced some of the inconsistencies with U.S. obligations, including by:

- preventing simultaneous ITC and District court proceedings involving the same issues;

- providing for counterclaims;
- requiring the complainant to post a bond when seeking cease and desist orders;
- providing for indemnification of aggrieved defendants; and
- restricting the authority to issue exclusion orders.

TEXTILES

The WTO Agreement on Textiles and Clothing replaces the 1974 Multifibre Arrangement and provides for the gradual and complete integration of apparel and textile products into the GATT regime over a ten-year transition period. Most of the changes necessary to implement this agreement will be taken by administrative action, with some changes requiring legislative action.

The U.S. implementing legislation includes provisions for a change in the approach to establishing "rules of origin" for the purposes of determining the country of origin for establishing quantitative restrictions and other regulations pertaining to importation. The principle guiding this new regulation is that origin should be based on the "most important" place of assembly or manufacturing process or, if the origin cannot be determined, the last country in which important assembly or manufacturing occurs. These changes will be phased - in over the next few years. The new rules will not apply in general until July 1996, and for products subject to a contract entered into before July 1994, the changes will not apply until July 1998. This reflects strong concerns over origin changes expressed by retailers and importers, and could have a trade restrictive impact with respect to imports from countries subject to restraints. The changes will bring the U.S. closer to the approach taken by Canada.

GOVERNMENT PROCUREMENT

The Government Procurement Agreement is a "plurilateral" trade agreement, with limited membership. It removes a number of impediments to access to federal procurement markets in signatory countries which include Canada, U.S., Japan, the E.U., and eight others. For the first time, federal procurement of services and construction will be subject to the agreement. The new code will enter into force January 1, 1996.

The U.S. SAA notes that the President will waive application of the Buy American Act for procurement by executive branch agencies that are subject to the new code. The new code will apply to many U.S. Government Agencies and government-controlled enterprises not covered by the 1979 Code, although many of these are already covered by NAFTA.

The implementing legislation codifies commitments in 37 U.S. states which voluntarily undertook to be covered in the Code specific entities within their jurisdiction. The President is required to consult with states for the purpose of achieving conformity of state laws and practices with the new Code. The legislation also provides for a Federal-state consultation process.

TECHNICAL BARRIERS TO TRADE (TBT)

The new Agreement of Technical Barriers to Trade details the rights of countries to establish and maintain standards and technical regulations for the protection of human, animal and plant life and health, the environment, and for protection against deceptive practices.

The changes contained in the U.S. implementing legislation are primarily of a technical or administrative nature. The exception is the amendment to the Federal Seed Act, deleting the requirement that imported seed be stained. The staining requirement is not based on health or safety concerns. Imports from Canada and Mexico already were exempt under NAFTA.

The SAA notes that nothing in the implementation of the TBT limits the ability of a federal agency to determine the appropriate level of safety or protection of standards-related measures.

TITLE IV

AGRICULTURE

The Uruguay Round Agreement brings agriculture under GATT/WTO rules. In addition to reducing tariffs, the Agreement:

a) provides more secure access to markets;
b) compels countries to reduce internal support when such programs distort trade;
c) ensures that support programs that do not distort trade (such as those for regional development, research, environmental protection, and farms income protection), are not subject to countervailing duties;
d) commits countries to reduce export subsidy expenditures; and
e) includes an agreement on health and sanitary matters that recognizes the right of countries to take action required to protect the life and health of humans, animals and plants while preventing the misuse of health and sanitary measures as disguised barriers to trade.

Section 22

The legislation contains amendments to Section 22 of

the Agricultural Adjustment Act which is the legislative basis for many existing U.S. import restrictions on agricultural products. It was necessary for the U.S. to modify Section 22 to conform with U.S. obligations under the UR Agreements, as the GATT waiver in place since 1955 will no longer apply under the WTO. The legislation will prohibit the application of any new Section 22 quantitative import restrictions or fees on products from WTO members. Existing measures, such as those applicable on sugar, sugar-containing products and peanuts, will be subject to tariffication on the basis of the U.S. WTO tariff schedule, as will certain other products such as peanut butter and crystal drink mixes. The prohibition on the use of Section 22 will provide greater predictability and security of access for Canadian producers who have long been subject to this highly discretionary trade restrictive tool. In the case of wheat, the legislation extends authority for Section 22 action to September 12, 1995 in order to implement the Canada - U.S. MOU on grains.

Duty Drawback

The legislation also contains a provision to deny duty drawback for any agricultural product subject to a tariff rate quota (TRQ). The provision will not deny drawback for exports within the quota level, but only for those exports which would enter at the higher above-quota duty rate.

Export Enhancement Program

The SAA notes the U.S. Uruguay Round commitment to reduce the budgetary outlays for, and quantity levels of, subsidized exports of agricultural products. The legislation specifies that the Export Enhancement Program (EEP) shall be administered in a manner consistent, as determined by the President, with U.S. Uruguay Round obligations. In this context, the bill also broadens the programs for which the EEP may be used and no longer restricts it to instances where the subsidies are being used to fight unfair trade practices of other countries. The SAA notes that the Agriculture Agreement requires further multilateral negotiation in five years, and the use of U.S. subsidies should induce the EU to agree to further reductions. The technical broadening of the EEP is not expected to result in significant change, since the U.S. has already been utilizing EEP more broadly than as a reaction to European export subsidies.

The House appropriation bill provides U.S.$800 million for the EEP in the 1995 fiscal year, below the level the U.S. is allowed to spend on EEP commodities in the first year of the WTO. United States export subsidies, such as the EEP, have had a detrimental effect on Canadian producers, and the new disciplines on these programs will have a positive effect on prices and on returns to Canadian producers.

Article XXVIII on Tobacco

The bill authorizes the President to proclaim tariff increases on certain tobacco products up to 350% ad valorem above established rates provided that the President proclaims a tariff rate quote pursuant to Article XXVIII of the GATT. It is expected that Canada and Mexico will be excluded from this action.

Report on Canadian Dairy and Poultry Markets

The bill contains a provision requiring the President, not later than six months after the date of entry into force of the WTO Agreement with respect to the U.S., to submit a report to Congress on "the extent to which Canada is complying with its obligations under the Uruguay Round Agreements with respect to dairy and poultry products and with its related obligations under the North American Free Trade Agreement."

The SAA also includes language stating that although WTO members may replace non-tariff barriers with tariff equivalents without violating their WTO obligations, "the NAFTA imposes independent obligations governing the tariffs that NAFTA countries may apply to imports of North American origin goods [and the NAFTA] requires that all tariffs applied to those goods be eliminated over time". This language is also clearly directed at Canada's supply management tariffication.

SANITARY AND PHYTOSANITARY MEASURES

The Sanitary and Phytosanitary Agreement (SPS) establishes a number of procedures and requirements to ensure that a sanitary and phytosanitary measure is actually intended to protect against the risk asserted, rather than serve as a guise for a trade barrier.

The legislation makes provision for improved public information on product standards, and details conforming amendments to animal and plant health laws administered by the Department of Agriculture.

The SAA asserts that the Agreement does not result in the lowering of sanitary and phytosanitary protection in the U.S.

INTERNATIONAL STANDARD SETTING ACTIVITIES

These provisions set out the regulatory and administrative requirements for the determination of the equivalence of sanitary and phytosanitary measures of a foreign country to those in U.S. law and regulation.

TITLE V

INTELLECTUAL PROPERTY

The Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) offers extensive protection and enforcement of specified intellectual property rights on the basis of national treatment with an effective mechanism for dispute resolution. TRIPS provides for the exclusive rental right for computer programs and a strict discipline on the compulsory licensing of patents. TRIPS requires Members to comply with the substantive provisions of the most recent Act of the Berne Copyright Convention and the Paris Industrial Property Convention.

The bill restores vitually all copyright protection to works for WTO or Berne Copyright Convention countries currently in the public domain in the U.S. which are not in the public domain in their country of origin. It also provides for recognition of inventive activity occurring in WTO member countries for the purposes of establishing a date of invention under U.S. patent law. (Previously, only inventive activity in the U.S. and NAFTA countries was considered). There is also a provision changing the term of the U.S. patent to twenty years from the filing date, rather than the present seventeen years from issuance. For existing patents the term will be the greater of seventeen years from grant and twenty years from filing. Collectively, these and other changes to U.S. provisions improve the extent to which intellectual property rights are recognized and enforced consistently among WTO member countries, on the basis of national treatment with effective mechanisms for dispute settlement.

TITLE VI

GENERALIZED SYSTEM OF PREFERENCES (GSP)

The Generalized System of Preferences have been renewed for ten months through to July 1, 1995. However, the trade policy criteria under which countries are granted preferential access to the U.S. market, was not changed. In the Statement of Administrative Action, the Administration announced its intention to submit legislation early in 1995 to "further renew" the GSP Program.

TITLE VII

REVENUE PROVISIONS

These revenue provisions reflect the requirement under U.S. law to off-set increases in spending or losses in revenue as a result of proposed legislation. Total off-sets required over a five year period have been determined to be US $11.5 billion for

the Uruguay Round and US$375 million for the Generalized System of Preferences. Funding is identified in a wide range of programs, as well as tax, administrative, and regulatory changes. Included as a source of funding is the increase in the Merchandise Processing Fee from 0.19 percent to 0.21 percent. The exemption from this fee for NAFTA goods is not affected by this change.

AGREEMENTS WHERE NO LEGISLATIVE CHANGES WERE REQUIRED

There are many instances where the U.S. considers its current laws are sufficient to cover its obligations under various WTO agreements. The following is a short description of agreements where the U.S. has indicated that its laws do not have to be modified.

GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

Changes in U.S. law are not required to implement U.S. commitments. However, U.S. market access for approximately 120 nations and national treatment to an extensive range of services is provided for in a schedule of specific commitments. U.S. commitments include; temporary entry of (business) persons, a wide range of business and professional services, communication and telecommunications, audiovisual services, including radio and T.V, construction and engineering, wholesaling and retailing, educational and environmental services, land transport, tourism, and health services. As in the NAFTA, and like all other nations, many limitations and exemptions remain.

Further negotiations on maritime services, basic telecommunications, temporary entry of persons, and (in future years) financial services, are likely to lead to additional U.S. commitments. The U.S. objectives for these negotiations are contained in the legislation and the SAA. The negotiations on maritime transport and basic telecommunications may result in access for Canadian service providers not achieved in other agreements, including NAFTA.

TRIMs

The Trade-Related Investment Measures (TRIMs) Agreement clarifies GATT rules regarding Articles III (national treatment for imported goods) and XI (prohibition on quantitative import and export restrictions), as they relate to investment. It also provides for a transitional period for LDCs and review of the operation of the Agreement.

Customs Valuation

The WTO Customs Valuation Agreement is based on the 1979

Tokyo Round Code, which will be extended to all WTO Members. It essentially clarifies the provisions in Article VII of the GATT.

Pre-Shipment Inspection

The Pre-Shipment Inspection Agreement (PSI) sets out rules for the use of private organizations engaged by members to check shipments being exported to their countries in the exporting country.

Rules of Origin

The Rules-of-Origin Agreement concerns the consistency, transparency and predictability of the rules used to determine country of origin for a wide range of non-preferential purposes such as country-of-origin marking and Article XIX actions.

Import Licensing Procedures

The Import Licensing Agreement sets out rules relating to administrative procedures for submission and approval of applications for imports of certain goods. The WTO Import Licensing Agreement improves upon the Tokyo Round Code, including providing for increased transparency and predictability.

OTHER ISSUES:

There are certain matters that were originally going to be addressed through the U.S. Uruguay Round legislation, but were not included in the final form. Key issues are noted below.

Fast Track

The Administration had proposed new fast-track authority of seven years duration. However, the proposal has been dropped from the implementing legislation. USTR's desire to retain a link between labour and environmental objectives and future trade negotiating objectives was strongly opposed by Republicans and their opposition prevented moderate Democrats from finding a bipartisan solution for fast track. The Administration now seeks support for inclusion of the authority in a separate trade bill in early 1995. The Administration will seek fast-track authority early in the new session.

Caribbean Basin Initiative

The Administration failed to obtain Congressional approval to incorporate in the implementing bill a provision that would have granted partial NAFTA parity to textile and clothing products from Caribbean Basin Initiative countries entering the United States. The U.S. administration has signalled it may

pursue this issue next year.

Beer

The U.S. Administration, faced with Congressional opposition, did not use the opportunity of the Uruguay Round implementing legislation to bring the two federal tax measures in the "Beer II" case into conformity with the GATT panel findings.

Economies in Transition

The Administration had proposed to suspend for five years anti-dumping laws for economies in transition, like Russia and the Eastern European states. U.S.industry opposed the proposal. Canadian potash producers (long plagued by U.S. antidumping actions), fertilizer and other resource sectors considered the proposal as giving an advantage to their competitors. A much narrower provision was proposed in the House. Ultimately, both proposals were dropped.