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THE GENERAL
AGREEMENT ON
TARIFFS AND TRADE

Uruguay Round Final Act
Should Produce Overall
U.S. Economic Gains



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To the President of the Senate and the
Speaker of the House of Representatives

The Final Act resulting from the Uruguay Round of negotiations of the General Agreement on Tariffs and Trade (GATT) was signed on April 15, 1994. The negotiations, begun in great part at the initiative of the United States, resulted in the most comprehensive GATT agreement to date. Since Congress will be considering legislation to implement the Final Act for the United States, we reviewed the negotiating objectives for the round, assessed what was accomplished, and analyzed the projected impact the Final Act would have in a variety of areas.

The results of our review are summarized in two volumes. In this volume, we present our overall analysis and conclusions about the results of the negotiations.¹ That analysis is based in part on our detailed review of individual areas of negotiation, such as agriculture, services, and subsidies, presented in volume 2. In each area, we

- identify the original trading problems that led to the negotiations;
- identify the U.S.' specific negotiating objectives (and, in some cases, those of other nations) aimed at resolving those problems;
- present the results of negotiations as provisions of the Final Act;
- analyze the impact of the Final Act, including the likelihood that it will resolve the original trading problems; and
- discuss issues that remain unresolved and those that require time and attention.

In conducting our review, we analyzed the Final Act and examined numerous other documents created both during the negotiations and after the round's conclusion. These documents were produced by U.S. agencies, industry groups, domestic interest groups, and research organizations, and by foreign governments and the GATT Secretariat. They covered negotiating objectives, industry positions on various issues, and analyses of the several agreements contained in the Final Act. We examined the leading studies of the economic effects of the round completed in 1993 or later, conducted by international organizations, U.S. agencies, and private research organizations. We did not, however, evaluate their methodologies or validate their results. We interviewed officials of the same

¹We testified earlier this year on the results of the Uruguay Round negotiations before the Subcommittee on Trade, House Committee on Ways and Means. See International Trade: Observations on the Uruguay Round Agreement (GAO/T-GGD-94-98, Feb. 22, 1994).

organizations, conducting almost 100 interviews with foreign government officials, GATT officials, and U.S. officials at overseas posts. We also interviewed attorneys engaged in international trade law and representatives of industry groups that have analyzed the Final Act as it affects their interests. (See vol. 2, ch. 1, for a more complete description of our objectives, scope, and methodology.)

We did our work between August 1993 and June 1994 in Washington, D.C.; Geneva, Switzerland; Brussels, Belgium; and Marrakesh, Morocco. We conducted our work in accordance with generally accepted government auditing standards.

Results of Our Analysis

While Congress will have to weigh many varied and sometimes competing interests in deciding whether to implement the Final Act of the Uruguay Round, we believe that the Final Act would produce overall economic gains for the United States. In achieving these gains, though, some sectors of the U.S. economy would experience adverse economic effects from increased foreign competition. Moreover, the new organizations, rules, and procedures contained in the Final Act could create new dynamics in the GATT system that are difficult to predict. Therefore, we have outlined some specific issues that later would require continued attention if Congress votes to approve the Final Act implementing legislation.

The Final Act generally achieved the negotiating objectives established by Congress in the Omnibus Trade and Competitiveness Act of 1988² to benefit U.S. trading interests. The Final Act would reduce tariff and nontariff barriers (such as subsidies and import licensing requirements) to further open markets; create stronger, more timely dispute settlement procedures; extend GATT principles to areas important to the United States but previously either not covered or only partly covered, such as services, intellectual property, and agriculture; and strengthen GATT as an institution.

Moreover, all the economic studies of the Final Act that we reviewed projected that it would increase international trade and U.S. national income. Figures varied among the studies, reflecting their different methodologies and focuses. The Council of Economic Advisers, which attempted to include the fullest potential effects of the Final Act, estimated that implementing it would increase annual U.S. national income between \$100 billion and \$200 billion in the tenth year after it is

²Public Law 100-418. The negotiating objectives are contained in title I, subtitle A, part 1.

made effective. This would be a cumulative effect of about 1.5 to 3 percent of current gross domestic product (GDP). Other studies also projected economic gains overall and for various sectors of the U.S. economy if the Final Act is implemented. For example, the Washington, D.C.-based Economic Strategy Institute has projected an increase in annual exports of services of \$3 billion between the years 2000 and 2003. In addition, the U.S. Department of Agriculture estimated that annual U.S. agricultural exports would increase between \$4.7 billion and \$8.7 billion by 2005.

However, some sectors, such as textiles and apparel, are expected to be adversely affected by increased foreign competition. Several studies have estimated that workers in these two industries would lose a total of 72,000 to 255,000 jobs under trade liberalization. Since preserving these jobs has resulted in higher product costs to consumers, the economy as a whole is expected to benefit from the increased competition. But the needs of dislocated workers should be recognized. We reported in testimony earlier this year³ that the current patchwork of worker adjustment assistance programs may not adequately cover all workers needing assistance, such as those who might be dislocated as a result of implementing the Final Act. Thus, Congress may want to consider having in place an effective program to assist those workers if the Final Act is implemented.

Some industry organizations and domestic interest groups have expressed concerns about how specific provisions of the Final Act might adversely affect matters of particular importance to them. For example, the Final Act would create a new World Trade Organization (WTO) as a successor to GATT. Doing so would, among other things, bring all member countries under more of the multilateral trade disciplines, a key U.S. negotiating objective. However, some feared that creating WTO and strengthening dispute settlement procedures could adversely affect some U.S. interests because other nations could (1) outvote the United States on important matters in WTO; (2) employ the stronger dispute settlement procedures to curtail the U.S.' unilateral use of its trade laws; or (3) use the procedures to challenge a host of other U.S. laws, such as those designed to protect the environment, health, and safety.

It is difficult to predict in the abstract the outcomes of any potential votes or dispute settlement actions under the new provisions of the Final Act. However, our review of voting procedures in the Final Act disclosed that they contain provisions designed to prevent misuse. The Final Act would

³See *Multiple Employment Training Programs: Major Overhaul Is Needed* (GAO/T-HEHS-94-109, Mar. 3, 1994).

require WTO members to try to make decisions by consensus, as is now the practice. Where consensus cannot be reached on substantive matters, the Final Act contains fallback voting procedures. For example, proposed amendments affecting WTO members' rights and obligations could only be considered if two-thirds of them voted to do so; if ratified, such amendments would apply only to members that voted for them. WTO members could, by a three-fourths majority vote, decide that a country not accepting an amendment could leave WTO, or remain with consent of the other members. However, the current GATT has a similar provision that requires only a majority vote, and it has never been invoked. Therefore, since the current GATT also has fallback voting procedures but normally has used consensus decision-making, it is hard to speculate on how the new WTO membership might use the revised provisions.

Our review of the dispute settlement procedures and their effect on U.S. laws and regulations indicates that the United States would still be able to use its trade laws and other domestic policies, including employing unilateral trade actions. However, should the United States be challenged and found to be in violation of WTO rules, the costs—in the form of compensation or sanctions—would be more explicitly imposed under the Final Act.

Some industry groups also expressed concerns about the new subsidies agreement contained in the Final Act. The agreement contains a new category of permissible government subsidies that could not be challenged under WTO rules. Some felt that other nations could use these subsidies in ways that could put U.S. firms at a competitive disadvantage. For example, they said that subsidies permitted for updating manufacturing plants to improve environmental protection could be used instead to make more general efficiency improvements aimed at achieving competitive gains. Again, it is difficult to speculate how foreign governments might employ the new permissible subsidies or the impact they might have on U.S. firms.

Given the difficulty of predicting the outcomes in these areas at this time, we believe that they would warrant continued attention as the various provisions are implemented if the Final Act is approved by Congress. In addition to these two areas, in volume 2 we have identified provisions in other complex areas of negotiation that concern some U.S. industries that would bear watching.

A final issue stems from problems posed by the budget rules governing the approval of legislation to implement the Final Act. Under the Budget

Enforcement Act of 1990 (Title XIII of P.L. 101-508) pay-as-you-go (PAYGO) rules, changes in revenue or direct spending programs may not increase the federal deficit in the first 5 years. Revenue losses must be offset by reductions in direct spending and/or increases in revenues within the PAYGO-controlled portion of the budget. These provisions are problematic for the Final Act because, despite its projected long-term economic gains, it would increase the budget deficit in the shorter term by reducing tariff revenues.

Finding funds to offset this revenue loss has proven difficult. The Congressional Budget Office (CBO) has estimated the net revenue loss for the first 5 years after the Final Act's implementation at a little over \$10 billion. We believe that this revenue loss should be offset, doing so would maintain deficit neutrality while liberalizing trade.

Background

Created in 1947, GATT is the primary multilateral agreement governing international trade and was founded on the belief that more liberalized trade would help the economies of all nations grow. (See vol. 2, ch. 1, for a detailed discussion of GATT's history.) GATT is based on several principles designed to foster more liberalized trade. One is nondiscrimination, embodying the concepts of "most favored nation" and "national treatment." Under the former concept, all contracting parties are bound to grant to each other treatment as favorable as they give to any country with regard to trade matters. Under the latter concept, the parties must treat other countries' industries no less favorably than they do their own domestic industries, once foreign goods have entered the domestic market.

Another important principle is that, while GATT does not prohibit protection for domestic industries, it does require that such protection be extended primarily through tariffs. Experts generally agree that using tariffs makes the extent of protection clearer than other types of protection and is less trade distorting. GATT generally prohibits quantitative restrictions, such as import quotas, except in special circumstances, such as correcting balance-of-payment problems. Successive rounds of negotiations under GATT sponsorship incrementally lowered tariffs and created special rules covering nontariff measures and trade in certain industries (such as textiles and apparel). After the Tokyo Round of negotiations, which preceded the Uruguay Round, weighted average tariffs on manufactured products in the world's nine major industrial markets fell to 4.7 percent, compared to about 35 percent in the late 1940s.

World leaders felt in the early 1980s that the implementation of GATT was weakening. GATT members had increasingly used bilateral arrangements—such as voluntary restraint agreements—and other trade-distorting actions—such as granting subsidies to certain industries—that stemmed from protectionist domestic policies. The leaders also felt that the multilateral trading system needed to become more relevant to the new global trading environment, principally by expanding GATT coverage to important business areas not then covered—such as protecting intellectual property, trade in services, trade-related investment measures, and textiles—or to areas only partly covered—such as agriculture. Finally, they felt that the multilateral trade organization needed to be strengthened to eliminate a variety of institutional problems, such as the fact that some newer GATT obligations were not applicable to all members.

Meeting in Punta del Este, Uruguay, ministers from GATT member nations decided to begin a round of negotiations in September 1986. The ministers set out what they considered to be the most ambitious negotiating goals ever, designed to resolve recognized problems by opening markets through reductions in tariff and nontariff barriers, broadening GATT coverage, improving GATT disciplines over unfair trading practices, and strengthening GATT as an institution. The United States established negotiating objectives when the Uruguay Round began and modified some of them during the negotiations. Congress set out its objectives in the Omnibus Trade and Competitiveness Act of 1988. The U.S.' objectives in general paralleled those set by the GATT ministers, but they were more specifically targeted to lowering foreign barriers to U.S. firms. Negotiations for the United States were managed overall by the U.S. Trade Representative's office (USTR).⁴

Trade has become increasingly important to the U.S. economy. In 1993, imports and exports of goods and services equaled about 21.7 percent of GDP. Consequently, as we observed in a 1985 report analyzing trading problems, having a well-functioning multilateral trading system is in the U.S.' interests.⁵

⁴Authorized originally in the Trade Expansion Act of 1962 (P.L. 87-794) and established as an agency of the Executive Office of the President by the Trade Act of 1974 (section 141 of P.L. 93-618, 19 U.S.C. 2171), the U.S. Trade Representative is a cabinet-level official with the rank of ambassador and is the President's principal adviser on international trade policy.

⁵See *Current Issues in U.S. Participation in the Multilateral Trading System* (GAO/NSIAD-85-118, Sept. 23, 1985).

Uruguay Round Final Act Supports U.S. and Global Economic Interests

Agreements Achieved Would Help Resolve Trading Problems and Benefit U.S. Economic Interests

As mentioned earlier, in 1986 the United States and other GATT member countries set several key objectives designed to solve problems that had developed in world trade. Those objectives were generally achieved in the Uruguay Round, and the United States is expected to benefit from their attainment.

Strengthening GATT as an Institution

Most trade experts we spoke with in the United States and other countries viewed the conclusion of the Uruguay Round itself as a major accomplishment that would boost world trade, and many felt the creation of WTO was also a major achievement. The United States had not originally supported the establishment of a new trade organization like WTO, but it did seek to improve GATT's overall effectiveness, decision-making, and coordination with other international organizations created after World War II to promote economic growth and stability.⁶ Establishment of WTO would benefit the United States by requiring all parties to abide by more GATT disciplines, thus making more countries subject to rules of conduct in a greater number of areas. The United States would also benefit from the WTO surveillance and oversight function, which would help ensure that members fulfill their obligations under the Final Act and in accordance with panel decisions. (See vol. 2, ch. 3.) The Director General of GATT noted that the establishment of WTO would fill a gap in the institutional structure designed to promote postwar economic development established at Bretton Woods. He stated that the confidence of traders, producers, and consumers in the stability of trade would be greatly enhanced.

Extending Coverage to New Areas

Agreements extending coverage to new areas were concluded that would bring services, trade-related investment measures, and trade-related intellectual property rights under GATT disciplines for the first time. The United States saw covering these areas as an important objective because, for example, in 1993 U.S. services exports totaled \$200.2 billion, yielding a

⁶A conference was held in Bretton Woods, New Hampshire, in 1944 to work out solutions to international foreign exchange and payments problems. The conference resulted in the creation of the International Bank for Reconstruction and Development (World Bank) and of the International Monetary Fund.

\$67-billion surplus. The precise impact the expanded coverage would have is difficult to project, because appropriate data are not readily available. The Economic Strategy Institute has estimated that, as a result of the Final Act, U.S. services exports would increase by \$3 billion annually between the years 2000 and 2003. GATT officials and the industry advisory groups we spoke to told us that having a framework in place—including a commitment to basic GATT principles—would be a significant achievement. Also, U.S. services providers covered by the Final Act could use the strengthened GATT dispute settlement rules to help them address unfair trading practices. (See vol. 2, ch. 5.) The officials and industry representatives also pointed out, however, that these achievements would be tempered by the fact that some key services sectors—notably financial services, audiovisual services, and telecommunications—were not included in the Final Act due to unresolved negotiations.

The potential benefits of extending GATT disciplines to intellectual property rights are also difficult to measure. The U.S. International Trade Commission (ITC) reported from a survey in 1987 that 167 U.S. firms believed they lost \$23.8 billion from foreign infringements of patents, copyrights, and trademarks.⁷ While this estimate is not precise, we believe it shows that U.S. firms are in a position to gain from the Final Act. But some industry representatives we spoke to were disappointed by certain intellectual property rights provisions. For example, while the pharmaceutical industry representatives praised the trade-related intellectual property agreement as the first that would effectively protect U.S. patents, they expressed concern that the Final Act would not protect pharmaceutical products that are currently in the regulatory approval process. (See vol. 2, ch. 5.)

Under the Final Act, trade in agricultural products would be more completely covered by GATT disciplines, and tariff and nontariff barriers would be reduced. The United States, being the world's largest agricultural exporter, was particularly interested in opening markets. The Agreement on Agriculture would require member countries to make specific reductions in market access restrictions, export subsidies, and internal support over a 6-year period, beginning in 1995. The U.S. Department of Agriculture projected that the Final Act would increase annual U.S. agricultural exports by between \$4.7 billion and \$8.7 billion by 2005 and

⁷See Foreign Protection of Intellectual Property Rights and the Effect on U.S. Industry and Trade, U.S. ITC, Publication 2065 (Washington, D.C.: Feb. 1988).

that it would create an additional 105,000 to 190,000 jobs by the same year.⁸ (See vol. 2, ch. 6.)

Strengthening Disciplines Over Unfair Trading Practices

Disciplines over unfair trading practices would be strengthened. The United States has been one of the most frequent users of GATT dispute settlement panels, but it has been increasingly frustrated by delays and by other nations' blocking of dispute panel decisions. Enforcement measures are contained in several parts of the Final Act, including the agreements on services, antidumping of goods, and trade-related intellectual property. Overall, the new dispute settlement mechanism would set stricter time limits for each step in the dispute settlement process. The process includes a guaranteed right to a panel and a right to appellate review of panel decisions. More of the process would be "automatic": countries could not block the adoption of a panel finding (as they can now), and members could take trade actions or receive compensation if others fail to act as recommended. The process also would be more open, because members could disclose their submissions and positions to the public and would have to provide public summaries of their panel submissions upon request of another member. (See vol. 2, ch. 3.)

The subsidies agreement would establish clearer rules and stronger disciplines in the subsidies area. Although many trading nations—including the United States—use subsidies to some extent, the United States has historically wanted more disciplines covering their use. Unlike the current subsidies code, the Final Act clearly defines subsidies and the conditions under which they could be actionable (challengeable) under GATT rules. The agreement would create three categories: (1) permissible and nonactionable ("green-lighted") subsidies that would be allowed, (2) permissible subsidies that could be actionable under certain conditions ("yellow"), and (3) prohibited subsidies ("red"). Further, it extends and clarifies the list of prohibited subsidies, and it covers domestic subsidies that are trade distorting. With the creation of WTO, all signatories would be subject to the subsidies code, extending coverage to developing countries. (See vol. 2, ch. 4.)

Opening Markets by Reducing Tariff and Nontariff Barriers

The Final Act would meet the original target of reducing tariffs by one-third overall. Some tariffs in major industrial markets would be eliminated or reduced significantly, and others would be harmonized with the tariffs of developed and developing nations. For the first time, many more countries would commit to setting maximum limits on tariffs on

⁸We are separately evaluating the Agriculture Department's study of the act's impact on the U.S. agriculture sector for the House of Representatives' Committee on Agriculture.

many items. The Final Act would permanently lower or eliminate tariff and nontariff barriers in sectors important to some U.S. firms' exports. (See vol. 2, ch. 2.)

Final Act Would Help U.S. Economy and World Economies Grow

All the studies we reviewed of the expected impact of the Final Act projected net overall gains to the U.S. economy and the world economies. Although the size of projected gains varied according to methodologies used in the studies, benefits were anticipated from efficiencies gained by resources being reallocated among economic sectors and from an increase in real income for consumers and downstream producers due to cheaper prices on imported goods. Economists refer to these onetime effects as "static" gains. Some of the studies we reviewed also projected that additional economic benefits would be derived from "dynamic" gains—ones that could be achieved as the result of higher productivity, due either to higher rates of investment or improvements in technology. Though economists who have studied dynamic gains believe they would be substantial, they are difficult to estimate.⁹

Several studies have estimated the anticipated economic benefits of the Uruguay Round. In 1994, a GATT Secretariat study estimated that world merchandise trade would be about \$755 billion higher (in 1992 dollars) in 2005 than it would have been without the tariff offers agreed to in the Final Act. The study also estimated that, after gradual annual increases, world income would be \$235 billion more in the same year.¹⁰ The study considered only static and not dynamic gains. Also, it only considered effects from increased trade in goods.

In a joint 1993 study, the Organization for Economic Cooperation and Development (OECD) and the World Bank estimated that world income would be \$213 billion more in 2002 (in 1992 dollars) with the Final Act—again after gradual annual increases—reflecting about a one-third cut in tariffs and agricultural nontariff barriers. In a follow-up study, OECD made an adjustment to reflect the reductions of nontariff barriers in manufacturing sectors as well. This adjustment increased OECD's estimated world income benefit to \$274 billion by 2002. OECD also estimated an increase in U.S. income of almost \$28 billion. Neither study considered

⁹See Richard E. Baldwin, "Measurable Dynamic Gains from Trade," *Journal of Political Economy*, 100:1 (Feb. 1992). Also see *The Dynamic Effects of Trade Liberalization: A Survey*, U.S. ITC, Publication 2608 (Washington, D.C.: Feb. 1993).

¹⁰These estimates were based on the tariff offers received and processed by the Secretariat as of March 15, 1994. See *Increases in Market Access Resulting from the Uruguay Round*, GATT Secretariat (Geneva, Switzerland: Apr. 12, 1994).

gains due to trade in services or increased intellectual property protection, and neither one included dynamic gains.¹¹

The Council of Economic Advisers estimated both the static and dynamic gains for the U.S. economy. In the 1994 Economic Report of the President, the Council projected that 10 years after the Final Act is implemented, it would add between \$100 billion and \$200 billion to U.S. GDP, following gradual annual increases. The size of that projection, however, was challenged by the Washington, D.C.-based Economic Policy Institute, which stated that the Council's estimate greatly overstated the economic gains from the Final Act. The Institute based its challenge partly on how the Council's methodology treated tariff revenue losses and partly because of its assumptions about dynamic gains. Because we did not set out to review each study's methodology, we did not analyze the Institute's criticism. But, as we stated earlier, dynamic gains are hard to estimate and the results should be interpreted with caution.

In March 1994, the Economic Strategy Institute published a quantitative evaluation of the major provisions of the Final Act.¹² The Economic Strategy Institute concluded that, of the provisions it could measure, the Final Act would improve the U.S. trade deficit by between \$13.5 billion and \$24.6 billion annually, which would translate to a gain in GDP of between \$32.3 billion and \$48.9 billion by 2003. However, the Economic Strategy Institute cautioned that provisions regarding subsidies, antidumping measures, and new dispute settlement mechanisms could limit the U.S. government's ability to deter predatory trade practices (such as dumping of goods). In turn, the Economic Strategy Institute felt that those practices could offset some of the cited gains.

The International Trade Commission completed an analysis of the likely effects of the Final Act in June 1994.¹³ After reviewing other studies of the overall economic effects, ITC concluded that overall economic gains would be realized. In its sectoral analysis, ITC projected that 48 sectors would

¹¹See Ian Goldin, Odin Knudsen, and Dominique van der Mensbrugge, Trade Liberalization: Global Economic Implications, OECD and the World Bank (Paris: 1993); and Assessing the Effects of the Uruguay Round, OECD (Paris: 1993).

¹²The Economic Strategy Institute study used a different methodology than did the other studies described earlier. Whereas the others used computable general equilibrium models, the Economic Strategy Institute surveyed and modified existing estimates of effects on key U.S. industries and summed them to estimate the impact on the whole economy. See Clyde F. Prestowitz, Jr., Lawrence Chimérine, and Robert Cohen, The Uruguay Round: A "Bottom-Up" Analysis, Economic Strategy Institute (Washington, D.C.: Mar. 1994).

¹³See Potential Impact on the U.S. Economy and Industries of the GATT Uruguay Round Agreements, Investigation No. 332-353, U.S. ITC Publication 2790 (Washington, D.C.: June 1994).

experience net trade effects of 5 percent or less (35 having positive effects, and 13 negative). Seven sectors would likely see effects of between 5 and 15 percent (6 positive and 1 negative). Three sectors would likely experience net trade effects of greater than 15 percent (1 positive and 2 negative).

Some Sectors Would Suffer Losses

While the Final Act is expected to lead to overall economic gains for the United States and for the global trading system, it would also impose some costs on specific sectors. Liberalized trade, as demonstrated in the postwar period, results in the reallocation of resources among various national economic sectors. The reallocation under the Final Act would bring disproportionate costs to some sectors more greatly affected by foreign competition, thereby dislocating workers. In the United States, the textiles and apparel industries, for example, could suffer losses if the Final Act were implemented. Four different studies have projected job losses for the textile and apparel industries under complete trade liberalization. Estimated job losses range from 72,000 to 255,000 over 10 years.¹⁴

Notwithstanding the job losses, U.S. consumers as a whole could benefit from lowering the costs associated with maintaining special protection aimed at benefiting industries that are less competitive in the world economy, such as the textiles and apparel industries. According to a study by researchers at the Washington, D.C.-based Institute for International Economics, the cost to U.S. consumers of the special protections for the textiles and apparel industries—such as voluntary trading restraints—amounted to \$24 billion in 1990. The study estimated that each job preserved in the apparel industry cost consumers almost \$139,000 in 1990, due mostly to higher prices for goods. It stated that textiles and apparel accounted for 75 percent of total costs of special protection of 21 sectors examined.¹⁵

Two major federal programs currently exist to aid the adjustment of workers who have lost their jobs: Trade Adjustment Assistance, and Economic Dislocation and Worker Adjustment Assistance. In addition, in response to congressional concerns about the possible effects of the 1993 North American Free Trade Agreement, special funds were

¹⁴See Prestowitz, Chimerine, and Cohen, The Uruguay Round; Gary Clyde Hufbauer and Kimberly Ann Elliot, Measuring the Cost of Protection in the United States, Institute for International Economics (Washington, D.C.: Jan. 1994); The Impact of Eliminating the Multi-Fiber Arrangement on the U.S. Economy, WEFA Group (Bala Cynwyd, PA.: Jan. 1992); U.S. International Trade Commission, The Economic Effects of Significant U.S. Imports Restraints, Publication 2699. (Washington, D.C.: Nov. 1993).

¹⁵Hufbauer and Elliot, Measuring the Cost of Protection.

earmarked for workers dislocated by increased imports resulting from that agreement.

We have issued several reports in the last year on shortcomings in these and other worker assistance programs, including delays in providing help, limitations in the services offered, and inadequacies in tailoring services to meet the specific needs of individual participants. For example, in October 1993 we testified that the Trade Adjustment Assistance Program fell short of meeting key goals, thereby limiting its effectiveness. Moreover, in March 1994 we testified that the current fragmented system of 154 federal programs aimed at providing employment training assistance, including these two programs, was confusing and often did not meet the needs of targeted populations. Thus, questions remain about whether all workers dislocated by the Final Act would have effective adjustment assistance available.¹⁶

Issues Warranting Continued Attention if Final Act Is Implemented

Agreements Not Always Fully Implemented

As we cautioned in our 1992 Transition Series Report on International Trade, signing agreements does not assure they will be implemented; the results have to be actively followed up.¹⁷ As mentioned earlier, GATT disciplines were weakened after the end of the Tokyo Round because many members began using protectionist bilateral and unilateral actions. As we reported in 1985, these members—placing domestic policy priorities over international disciplines—applied numerous exemptions, waivers, exceptions to GATT principles, and import restrictions in favor of their own industries.

A special study group formed by the GATT Director General also reported on the erosion of trading rules in 1985, stating, “[t]oday, more and more countries are increasingly ignoring the trading rules, and concluding bilateral, discriminatory and restrictive agreements outside the GATT

¹⁶See GAO/T-HEHS-94-109, Mar. 3, 1994; and Trade Adjustment Assistance Program Flawed (GAO/T-HRD-94-4, Oct. 19, 1993).

¹⁷See International Trade Issues (GAO/OCG-93-11TR, Dec. 1992).

rules.” The group pointed out that the restrictions were employed in a wide variety of industries, including steel, agriculture, footwear, automobiles, machinery, and consumer electronics. As we observed, such developments raised questions about the effectiveness of the entire multilateral trading system, and they gave impetus for opening the Uruguay Round.¹⁸

Effects of WTO on U.S. Interests

Some industry groups, trade lawyers, and Members of Congress have expressed a variety of concerns about how different provisions of the Final Act might affect the U.S.’ ability to conduct trade and pursue other domestic policies. They share a general apprehension that the United States would lose some “sovereignty” to the newly created WTO. Although the issues are complex and interrelated, we have condensed them into three areas of concern: (1) the creation of WTO and its decision-making processes, (2) the effects of the new dispute settlement system on the U.S.’ ability to take unilateral trade actions, and (3) the ability of other nations to use the new mechanisms to challenge U.S. laws and regulations in a variety of domestic policy areas. These issues are treated comprehensively in volume 2, chapter 3, of this report. The concerns and our views are summarized in the subsections that follow.

WTO Decision-making

As explained earlier, the Final Act would create for the first time an institutional structure—WTO—encompassing all GATT disciplines. The Final Act also would revise decision-making procedures for amending agreements, interpreting provisions, and waiving requirements. Some Members of Congress and industry representatives have expressed concerns that, under the new procedures, members of WTO could approve requirements that would run counter to U.S. interests. Further, they have stated the belief that WTO could become a highly politicized organization in which a large number of members would vote against the United States because of political differences.

USTR, some other industry representatives, and some other trade lawyers we interviewed maintained that the WTO voting procedures contain safeguards to make such an event unlikely. Our review of the procedures showed that the Final Act specifically requires members of the principal decision-making bodies—the Ministerial Conference or the General Council—to attempt to reach decisions by consensus. Absent consensus, various fallback voting provisions were designed. For instance, amending

¹⁸See GAO/NSIAD-85-118, Sept. 23, 1985; *Trade Policies for a Better Future: Proposals for Action*, GATT (Geneva, Switzerland: Mar. 1985).

the most-favored-nation and decision-making provisions of the Final Act could only become effective after all WTO members accepted them. Proposed amendments affecting the rights and obligations of members could only be considered by the members if two-thirds of them vote to do so; if ratified, these amendments would only be applied to member nations that voted for them. WTO member nations could, by a three-fourths majority vote, decide whether a member not accepting an amendment may leave WTO or remain with the consent of the other members. However, this provision is similar to Article 30 of the current GATT, which requires only a majority vote on such matters. It has never been invoked, according to USTR. Although the current GATT has other fallback voting procedures, too, members have normally tried to make decisions by consensus. Thus, it is hard to speculate on the circumstances in which WTO members might use revised procedures to vote against the United States. Much could depend on the dynamics of individual situations.

Dispute Settlement

The Final Act would create a new Dispute Settlement Body, comprised of representatives of WTO members, operating under revised rules for administering and settling disputes. Some U.S. industries have raised concerns that, with the automatic progression of procedures under strict time limits, the United States would be more limited in its ability to use its own trade laws unilaterally to serve its own interests. The European Commission has also stated that it feels the Final Act would limit U.S. unilateral trade actions, particularly under Section 301 of the 1974 Trade Act (19 U.S.C. 2411). This law requires USTR to take all appropriate actions to obtain the removal of any act, policy, or practice of a foreign government that violates an international agreement or is unjustifiable, unreasonable, or discriminatory, and burdens or restricts U.S. commerce. It has become a principal means for addressing unfair foreign trade practices.

Responding to these concerns, USTR and some industry groups and trade lawyers we spoke to stated that the Final Act would not prevent the United States from employing its own trade remedies. They said the United States could still apply Section 301 under the new dispute settlement procedures, or even on a unilateral basis if necessary. However, USTR acknowledged that if the United States (or any other nation) should choose to act unilaterally in a way that would violate a WTO obligation or principle, the Final Act would more expressly provide for imposing sanctions on the United States (or other country). The broader coverage of WTO would also require using multilateral processes rather than strictly unilateral actions in more cases.

Effects on Other Domestic Laws and Regulations

Consumer groups, environmental organizations, trade attorneys, and some Members of Congress have stated they believe that other nations could use the stronger WTO procedures to challenge and weaken U.S. laws and regulations protecting health, safety, and the environment. These groups shared some of the concerns previously mentioned about WTO voting and dispute settlement procedures. They also stated that the Final Act would generally subordinate environmental, health, and safety restrictions to trade interests in part by requiring those kinds of restrictions to be no more trade distorting than necessary. In addition, they criticized the dispute settlement processes as not being sufficiently open to public participation, thereby decreasing the amount of public scrutiny and influence that could be brought to bear on the procedures.

As we point out in volume 2, chapter 6, of this report, the Final Act contains provisions in several areas—such as technical barriers to trade, and plant and animal health and safety—that could pertain to laws and regulations designed to protect the environment, health, and safety, such as controls over contaminants and toxins. USTR has stated that under the Final Act the United States could still establish its own standards for protecting health and safety. Our review disclosed that, in the case of food safety measures, under the Final Act a country's protective measure would not be considered too trade restrictive unless there is another measure that would achieve the appropriate level of protection and be less restrictive. Finally, with regard to the openness of dispute settlement procedures, we pointed out earlier in this report that the procedures have requirements that would publicly disclose information about dispute settlement cases. But USTR has also stated that it would work for greater openness in dispute settlement deliberations.

In analyzing these three areas of concern, it is difficult to predict how WTO and the new dispute settlement mechanisms would operate in every circumstance. Individual votes and individual dispute cases would have their own complexities, and considerations about overall political and economic relations could color the debate on any of them. While the United States could benefit from stronger international dispute mechanisms, for example, it would also be bound by them as it would in any international convention it signs.

Our analysis indicates that, under the Final Act of the Uruguay Round, the United States would still be able to use its trade laws and other domestic policies, even utilizing unilateral trade actions. However, if it were to act strictly unilaterally in ways that violated WTO obligations, rules, or

decisions, the United States would have to weigh the resulting costs. One cost would be the specific trade sanctions authorized by WTO if, for example, the United States were to refuse to comply with a decision made by a dispute settlement panel. Another cost would be undermining support for a system that the United States sought to strengthen because it felt that doing so would be in its best overall interests.

Given that it would be hard to predict the outcome of all the effects of new operating procedures at this time, in order to determine how the new WTO and its procedures ultimately affect the balance of U.S. interests, the following issues would warrant attention if the Final Act is implemented:

- how the use of new voting procedures evolves and how these procedures affect the use of U.S. laws and regulations;
- how other countries react to the continued use of U.S. trade laws to address perceived unfair foreign trade practices;
- how U.S. firms' interests are affected by dispute settlement panel decisions; and
- which nontrade domestic laws and regulations are challenged, on what basis they are challenged, and how panels decide the cases.

Use of Permissible Subsidies

Subsidies have historically been a troublesome area for negotiation. On the one hand, the current GATT subsidies code recognizes that governments can use domestic subsidies to promote legitimate social and economic objectives. On the other hand, the code also notes that subsidies could have harmful effects on trade and production.

Some industry groups and legal authorities have pointed out to us a number of potential concerns in the new subsidies agreement. One is that other nations could take advantage of the "green-lighted" subsidies to give their industries competitive advantages. They could, for example, use subsidies allowed for improving the environmental safety of manufacturing facilities instead to make other efficiency improvements that might yield competitive gains. Other governments could use green-lighted subsidies designed to support research and development to target assistance to favored industries, causing the United States to use subsidies to keep its own industries competitive. Finally, some industry advisory committees have reported the concern that the definition of a subsidy in the Final Act—as a "financial contribution by a government"—may be too narrow; it might not cover various government

benefits previously considered actionable, such as preferential access to credit. (See vol. 2, ch. 4.)

It is difficult to predict in the abstract how other governments might use the permissible subsidies. However, since we observed the increased use of subsidies after the Tokyo Round as a way to further protectionist interests, we believe the following issues would warrant close tracking if the Final Act is implemented:

- how foreign governments apply the green-lighted category of subsidies and how WTO panels rule on them;
- how the Department of Commerce decides on applying countervailing duties¹⁹ to foreign government subsidies that Commerce considers to be in violation of the Final Act; and
- how the new definition of a subsidy is interpreted by WTO panels and how this interpretation affects the standing of U.S. countervailing duty orders and future U.S. countervailing duty cases.

Budget Enforcement Act Requires Offsets to Reduce Tariff Revenues

A final issue stems from the requirement to offset revenues that would be lost because of the Final Act's tariff reductions. Under the Budget Enforcement Act of 1990, legislation affecting revenues or direct spending (spending for mandatory programs and entitlements) is governed by PAYGO rules. The law requires that any changes in revenue or spending within this category be deficit neutral both in the first year and over a 5-year period. That is, any revenue reductions—including those resulting from tariff reductions—must be offset by revenue increases and/or spending cuts within the PAYGO category. Senate rules require deficit neutrality for a 10-year period.

The CBO's preliminary estimate²⁰ of the offset required to achieve deficit neutrality is a little over \$10 billion over the first 5 years. The administration has considered a variety of ways to pay for the first 5 years. Some have suggested using the waiver provision of the Budget Enforcement Act of 1990. In addition, the administration has considered—and some supporters of the Final Act have advocated—seeking a waiver in the Senate from that body's rules requiring an offset for the second 5-year period. Finding offsets has proved

¹⁹Countervailing duties are levies placed on imports by the importing country to offset government subsidies in the exporting country.

²⁰This estimate was made in the absence of the implementing legislation and hence is subject to change upon review of the final legislative language.

difficult. Thus, resolving the budget issue has remained an obstacle to the Final Act's implementing legislation.

We have consistently held that deficit reduction is important to the long-term economic health of the nation.²¹ Therefore, we believe that the Final Act should be deficit neutral, and any revenue loss in the first 5 years should be offset.

Conclusions

The United States and the other GATT members largely achieved their overall objectives for the Uruguay Round, and the Final Act is expected to produce overall economic gains for the United States. But, in achieving these overall gains, some sectors of the U.S. economy could pay a disproportionate share of the costs of resource reallocation. While it is expected to increase economic growth, the Final Act is also expected to dislocate workers, and their needs should be considered.

Both deficit reduction and liberalized trade are important to the long-term health of the U.S. economy. Therefore, finding offsets to the 5-year tariff revenue losses as required by the Budget Enforcement Act would preserve the overall economic gains of the Final Act and maintain deficit neutrality.

Matters for Congressional Consideration

If Congress approves legislation to implement the Final Act, it may also wish to ensure that an effective worker adjustment assistance program is in place to facilitate the structural adjustment that would be needed in the workplace.

Also, in deciding whether to approve implementing legislation, Congress should consider ways to offset the projected tariff revenue losses to assure deficit neutrality over the first 5 years as required by the Budget Enforcement Act.

Agency Comments

On July 13, 1994, we met with the Counselor to USTR, the Assistant USTR for Economic Affairs, and the Deputy Assistant USTR for Multilateral Trade Negotiations to obtain their comments on our report. The USTR officials agreed with the report's basic message that the agreement is in the overall national economic interest and felt it was balanced in its presentation of the issues. Specifically, they stated that our presentation of the issues

²¹See, for example, Budget Policy: Prompt Action Necessary to Avert Long-Term Damage to the Economy (GAO/OCG-92-2, June 1992) and Budget Policy: Long-Term Implications of the Deficit (GAO/OCG-93-6, Mar. 25, 1993).

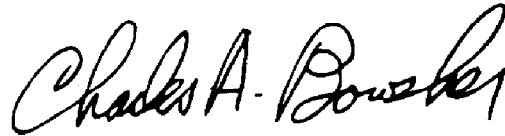
surrounding WTO, permissible subsidies, and GATT's budget implications was accurate and fair, as was our discussion of negotiating objectives achieved and the economic benefits and costs of the Final Act.

USTR officials suggested that additional balance would be added to the issue of job losses in the U.S. textile and apparel industry due to implementation of the Final Act by including job loss figures on this issue from ITC's November 1993 study, The Economic Effects of Significant U.S. Imports Restraints. We made the appropriate changes to the report based on our review of the ITC study.

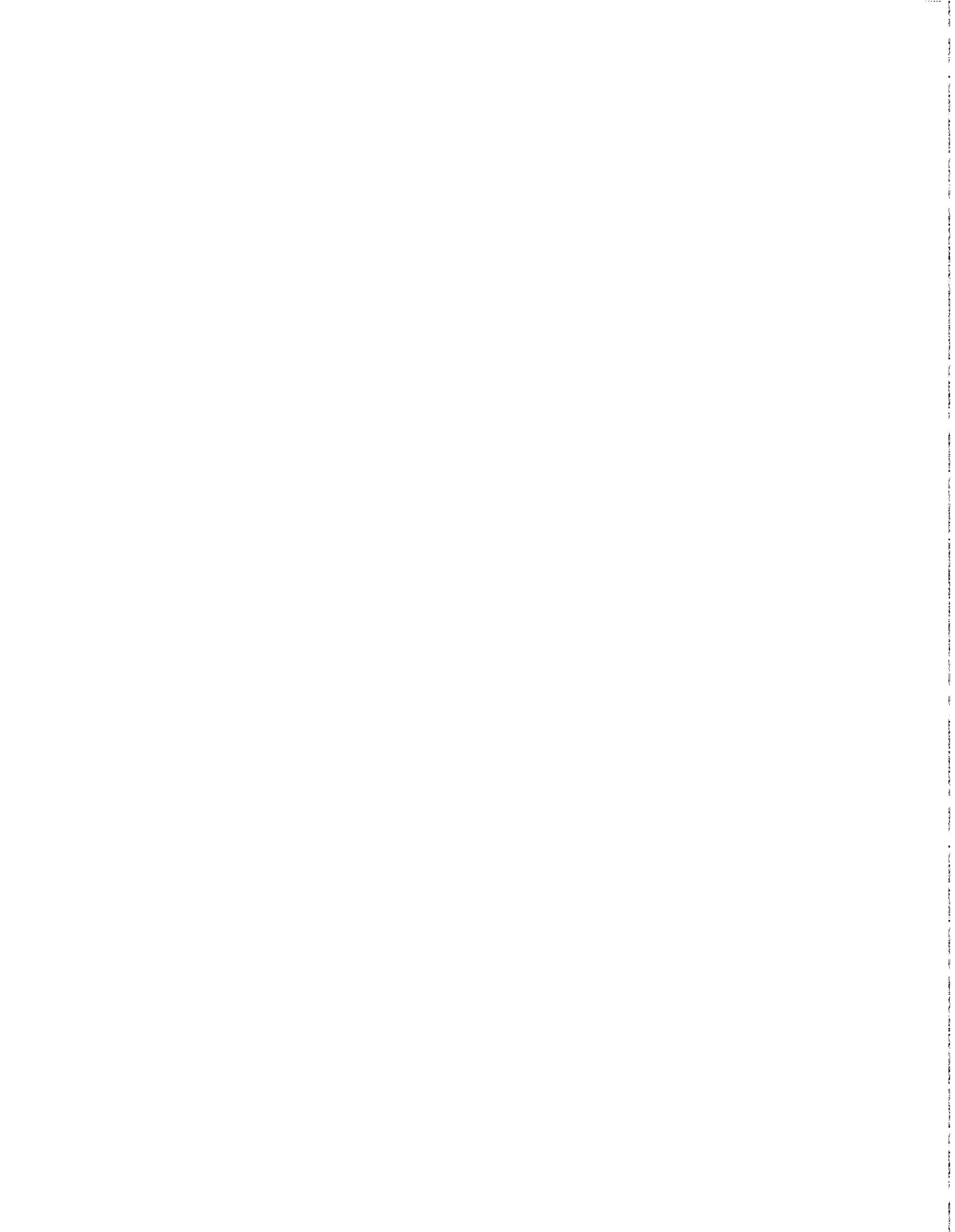
To assure the technical accuracy of our report, in May 1994 we discussed various sections of our report with program officials from the Office of the U.S. Trade Representative; the U.S. Departments of Agriculture, Commerce, and the Treasury; officials at the GATT Secretariat; some industry representatives; and experts in trade law. We made some technical changes to specific parts of the report based on their comments. A more complete description of officials who gave us these technical comments is provided in volume 2.

We are sending copies of this report to Members of Congress; the U.S. Trade Representative; the Secretaries of Agriculture, Commerce, State, and the Treasury; the Chairman of the U.S. International Trade Commission; the Director of the Office of Management and Budget; and other interested parties. Copies will also be made available to others upon request.

This report was prepared under the direction of Allan I. Mendelowitz, Managing Director, and JayEtta Z. Hecker, Director, International Trade, Finance, and Competitiveness, who may be reached on (202) 512-5889 if you or your staff have any questions. Other major contributors to this report are listed in volume 2, appendix II.

A handwritten signature in black ink that reads "Charles A. Bowsher". The signature is written in a cursive, flowing style.

Charles A. Bowsher
Comptroller General
of the United States



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