

Congress of the United States
House of Representatives
Washington, DC 20515

March 31, 2006

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Today, your Administration released, as required by law, the "National Trade Estimates" report, which contains an inventory of barriers to U.S. exports of goods and services, investment and intellectual property rights. As in previous years, this report identifies numerous barriers that have existed for years and have yet to be effectively addressed by the Administration.

The purpose of this letter is to renew our call upon your Administration to move beyond cataloguing these barriers and to begin enforcing U.S. rights. Too often, this Administration has missed opportunities to assert and defend U.S. rights under international trade rules, and instead has focused on moving from one new trade agreement to the next. Failure to vigorously enforce previously negotiated rights undercuts the value of these existing agreements for U.S. workers, farmers and businesses.

The United States cannot afford to continue down this path. The U.S. trade deficit continues to grow at a record-breaking pace, and last year was no exception. In 2005, the U.S. trade deficit reached \$724 billion – the highest ever in history and almost six percent of the U.S. economy. Additionally, U.S. trade with China continues to remain in massive imbalance, with our 2005 bilateral trade deficit increasing to \$202 billion, or 25 percent higher than in 2004. For the first time in history, the United States ran a trade deficit in Advanced Technology Products trade in 2002 – by 2005, that deficit had more than doubled to \$44 billion. At the same time, the U.S. services surplus has dropped nearly 24 percent since the beginning of 2001. Finally, the U.S. agricultural surplus has fallen by 65 percent in the last five years to \$5.5 billion, and is on track to disappear within the next three years.

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These massive trade deficits come at a steep price. For example, over the past five years alone, foreign-owned debt has more than doubled. It currently stands at \$2.2 trillion, or 17 percent of U.S. GDP. The Bush Administration has accumulated more debt to foreigners than all other previous Administrations combined. In fact, foreigners have financed 90 percent of the Bush Administration's increase in total federal debt.

These deficit and debt levels are unsustainable. The right trade policies and priorities can help fix the problem. Unfortunately, for the past five years, we have had the wrong policies and priorities.

After the loss of almost three million manufacturing jobs since January 2001, and the growing problem of outsourcing in the services sector, it is time to stop taking inventory and time to start producing results for American workers, farmers and businesses. In the five years that the Bush Administration has been in office, USTR has brought only fourteen cases in the WTO. By contrast, the Clinton Administration brought an average of eleven cases per year in the WTO.

We urge you to direct the USTR to request immediate consultations with ten key U.S. trading partners – Brazil, China, the European Union, Indonesia, Japan, South Korea, Malaysia, Mexico, Russia and the United Kingdom – and to commence within 60 days 12 additional cases, 11 of them in the WTO, unless during a “consultation” period the problem in each case is successfully resolved. The matters raised are ones that involve critical U.S. manufacturing sectors, such as commercial aircraft engines and automotive products, key services sectors such as distribution, and intellectual property rights. USTR has, in its 2001, 2002, 2003, 2004, 2005, and 2006 reports carefully documented most of these problems, but taken no effective action to redress or eliminate them – with the exception of one. We are pleased that the Administration has, albeit belatedly and after repeated calls by congressional Democrats, initiated a case against the European Union for providing subsidies to Airbus. We are also pleased with USTR's decision yesterday to request consultations in regard to China's discriminatory practices with respect to auto parts. We urge the Administration to take similar action on the remaining issues we have identified. The details of each case are set forth in an Appendix to this letter.

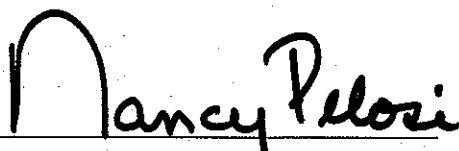
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Finally, in early February, a number of House Democrats introduced the Stand Up for America Act, which creates an independent Congressional Trade Enforcer (CTE) to investigate violations of U.S. trade agreements and issue indictments for USTR to file cases in the WTO and under U.S. free trade agreements. The Stand Up for America Act also revives a key tool of U.S. law used by Republican and Democratic administrations alike in the past, the so-called "Super 301" statute. We hope that the White House will work for swift passage of this legislation this spring. Until the legislation is passed, we are calling on you – as we have done for the past two years – to re-instate at once by Executive Order the Super 301 provision, as President Clinton did on three occasions in the 1990s. Creation of a CTE and the reinstatement of Super 301 will help call attention to the most important barriers to U.S. exports and strengthen the hand of the United States to make sure it gets what it bargained for in trade agreements.

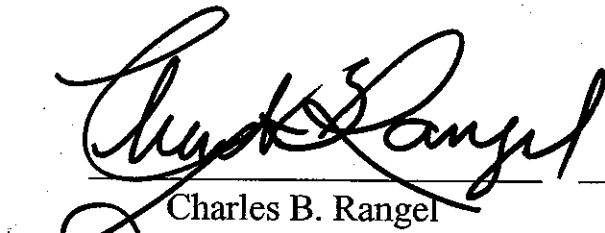
The Stand Up for America Act, along with additional legislative and other actions are designed to ensure that U.S. trade policy raises standards of living in the United States and around the world. Accomplishing this goal requires a trade policy that (1) opens markets for U.S. businesses, farmers and workers by actively enforcing U.S. rights under trade agreements and focusing on commercially meaningful trade agreements – particularly the Doha Round of WTO negotiations; (2) defends, protects and enforces U.S. unfair trade laws vigorously; (3) exercises U.S. leadership to promote basic labor and environmental standards around the world; and (4) ensures U.S. leadership in expanding trade benefits to the poorest countries.

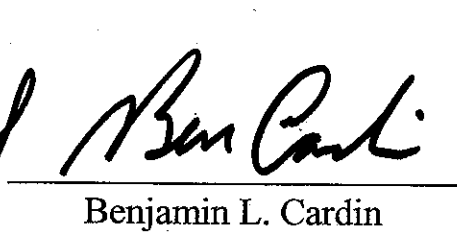
Without vigorous and responsible enforcement, trade agreements will increasingly be seen as part of the problem. Americans deserve a trade policy that produces real results. To restore credibility to the trading system, the Administration must enforce U.S. trade agreements.

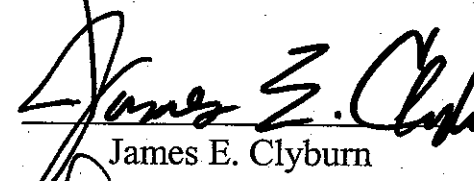
Sincerely,

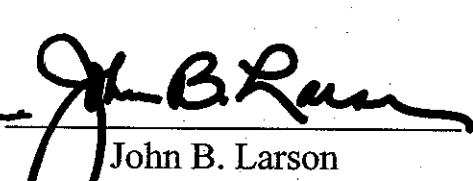

Nancy Pelosi

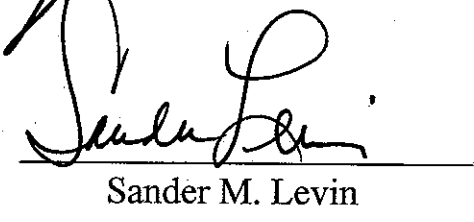

Steny Hoyer

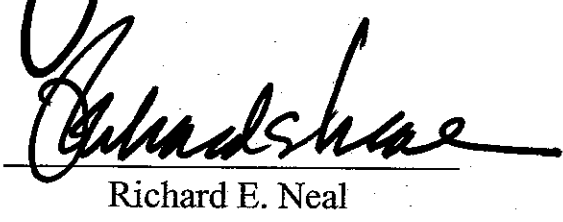

Charles B. Rangel


Benjamin L. Cardin


James E. Clyburn


John B. Larson

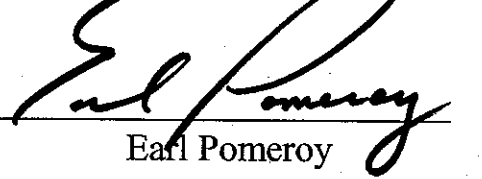

Sander M. Levin


Richard E. Neal


Artur Davis

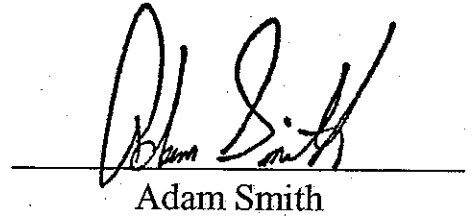

Xavier Becerra

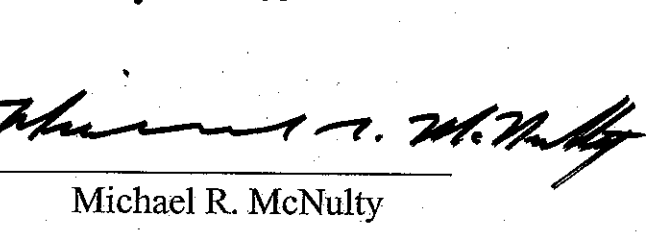

Ellen O. Tauscher


Earl Pomeroy


Ron Kind


Lloyd Doggett


Adam Smith


Michael R. McNulty

APPENDIX:

Five Years with Little Progress on Key Barriers for U.S. Exporters

SYNOPSIS

Outlined below are 12 cases that should be pursued immediately by the Bush Administration — 11 under the agreements of the World Trade Organization (WTO), and one using established provisions of U.S. law — to create new opportunities for American exports of goods and services, and to protect U.S. intellectual property rights. Action on these cases is long overdue.

For the last five years, the Bush Administration has failed to take effective action on these and other important cases documented in its own National Trade Estimate Report on Foreign Trade Barriers. The Bush Administration is still asleep at the wheel in enforcing U.S. trade agreements. From January 2001 to January 2005, other countries have filed 39 cases against the United States — three times as many as have been brought by the Bush Administration.

The list of cases outlined below covers foreign barriers in need of immediate action. IPR violations in China, Russia, Brazil, Indonesia, Malaysia, and Mexico continue to create serious trade losses for U.S. copyright and other industries. Ongoing currency manipulations in China and Japan undercut U.S. products at home and abroad. Non-tariff barriers to the auto and auto parts markets in China, Japan and Korea add to the U.S. trade imbalance with these countries.

This list is not exhaustive. American farmers increasingly face barriers, including non-tariff barriers, that impede their access to foreign markets. There are indications that China's massive textile and apparel sector is aided — and has long been aided — by China's industrial policy, including subsidies; yet, the Bush Administration has not even investigated these serious allegations. The European Union has begun a program of "Economic Partnership Agreements" that, like earlier generations of EU bilateral trade agreements, raise serious questions of consistency with WTO rules.

We raised several of these issues in our letter to the Administration last year, but little effective action was taken and little meaningful progress has been made, with limited exception. We are pleased that the Bush Administration has, albeit belatedly and after repeated calls by Congressional Democrats, initiated a WTO case against the European Union for providing subsidies to Airbus, and has just this week requested consultations with China on barriers to exports of U.S. auto parts. We look forward to a resolution that restores a level playing field for Boeing, American's largest exporter — and expect similar action for other American exporters. The Clinton Administration brought an average of 11 WTO cases per year against barriers to U.S. exporters; the Bush

Administration has brought only 14 cases total in the last five years.

List of Cases

- Brazil - IPR violations hurt U.S. music, recording industry and business software industries.
- China - Ongoing currency manipulation undercuts U.S. exports.
- China - Ongoing ban of health-care products.
- China - Non-enforcement of U.S. copyrights and trademarks.
- Indonesia - Non-enforcement of U.S. copyrights and trademarks.
- Japan - Non-tariff barriers to U.S. autos and auto parts.
- Japan - Ongoing currency manipulation undercuts U.S. exports.
- South Korea - Discriminatory taxes and non-tariff barriers close auto market.
- Malaysia - IPR violations hurt U.S. recording industry.
- Mexico - IPR violations hurt U.S. motion picture industry.
- Russia - IPR violations hurt U.S. copyright industries.
- UK - Aero-engine subsidies.

Description of Cases

- **Brazil - IPR violations hurt U.S. music, recording and business software industries**
 - **Lack of IPR protection**: Optical disc piracy continues to be a major problem in Brazil. Sales of pirate optical discs by street vendors are growing. Internet piracy of both hard goods and unauthorized downloads is also increasing. Piracy of music and sound recordings remains at 52 percent of all CD sales in Brazil with 73 million pirate CDs being duplicated in 2005. This translates into estimated trade losses for the U.S. music and recording industry that are greater than \$334 million. Software piracy includes: illegal reproduction/duplication of software programs both for commercial and non-commercial ends; illegal use by end users; hard-disk loading of illegal software by computer resellers, and the manufacture and/or sale of counterfeit software products. Estimated trade losses for the United States due to software piracy were at \$385 million in 2005. The Government of Brazil has improved coordination on anti-piracy enforcement; however, it is still too soon to evaluate the results. Brazil's IPR violations have been documented by the Bush Administration: 2001 NTE (17-18), 2002 NTE (16-17), 2003 NTE (16-18), 2004 NTE (22-24), 2005 NTE (33-35).
 - **Actions**: To encourage Brazil to live up to its WTO commitments, **USTR should** (1) immediately request consultations under the WTO Agreement on Trade-Related Aspects of Intellectual Property rights (TRIPS) regarding Brazil's failure to comply with Articles 41 and 61 as a result of its lack of enforcement and deterrent sentencing; (2) commence a dispute resolution case under WTO.

procedures if the problem cannot be resolved in the 60-day consultation period; and (3) continue to maintain Brazil on the U.S. Government's Special 301 "Priority Watch List" of countries that present significant piracy problems for U.S. copyright holders.

- **China - Ongoing currency manipulation undercuts U.S. exports**
 - **Trade Agreement violation and trade distortion:** The continued undervaluation of the yuan has made Chinese products artificially cheaper, harming U.S. workers, farmers, and businesses, and exacerbating the U.S.-China trade deficit. China's currency manipulation gives China's goods and services a built-in unfair competitive advantage over American goods and services and has contributed to another record bilateral goods trade deficit in 2005 of \$202 billion, an increase of \$39.7 billion over 2004. In January 2006 alone, U.S. imports from China outpaced exports by almost 7 to 1. Yet, even in the face of these sobering figures, with their severe consequences for American workers, farmers and businesses, the Administration has failed to take action to deal with China's currency manipulation. In July 2005, China announced that it would revalue its currency by 2% and allow the yuan to appreciate by as much as 0.3 percent per day against the dollar. In reality, the yuan has appreciated by just 3 percent since last summer. The Bush Administration has been under pressure from Congress to act on China's currency policies, yet, in its report to Congress on International Economic and Exchange Rate policies released on November 28, 2005, the Treasury Department again denied that China is manipulating its currency.
 - **Actions:** The Administration sought China's accession to the WTO on the premise that China would be held accountable under WTO rules. There is a growing consensus that China's currency practices violate at least three WTO provisions that relate to: (1) subsidies (Agreement on Subsidies and Countervailing Measures), (2) currency manipulation (Article XV of the General Agreement on Tariffs and Trade (GATT) 1994), and (3) nonviolation nullification or impairment (Article XXIII:1(b) of the GATT 1994).

In September 2004 and again in April 2005, 35 Members of Congress filed a "Section 301" petition, which called on the Administration to take concrete steps to eliminate China's artificial advantage resulting from currency manipulation. It was the third time in less than a year that such a petition was filed, and it was summarily rejected by the Administration, just as previous petitions filed by Members of Congress and U.S. businesses and workers had been. **The Administration should:** (1) reverse its decision, accept the petition and initiate consultations with China immediately under WTO rules; (2) file a WTO action if China does not agree swiftly to a Plaza-type accord to revalue the yuan and move towards a flexible, market based exchange rate; (3) issue the statutorily-mandated Treasury Report, due April 15, on time; and (4) comply with U.S. law by ending

its previous attempts to deny that China's actions constitute manipulation.

- **China - Ongoing ban of health-care products**

- **Ban of blood-plasma products:** The Chinese market is largely closed to U.S. exports of blood-plasma products because of the ban on imports imposed in 1985. China's import ban on blood plasma-derived products is a violation of the national treatment provisions of Article III of GATT 1994, and Article XI of the GATT 1994. Further, there is no basis for China to justify its import ban for reasons of human health per GATT Article XX. U.S. plasma-derived products have an established track-record of safety and efficacy. Removing this trade barrier is critical in its own right as it is estimated that U.S. exports to China would increase by \$100 to \$200 million annually. However, it also is critical to ensure fair treatment to U.S. exports around the world of value added medical products.
- **Actions:** To encourage China to live up to its WTO commitments, **USTR should** (1) immediately request consultations under Articles III and XI of the GATT 1994 ; and (2) commence a dispute resolution case under WTO procedures if the problem cannot be resolved in the 60-day consultation period.

- **China - Non-enforcement of U.S. copyrights and trademarks**

- **Barrier to U.S. exports and IPR protection:** China's market access restrictions and resulting pirate market growth cost the U.S. copyright industries about \$2.4 billion in 2005. The piracy rates of physical copyright products remain virtually the highest in the world, at 85-95 percent depending on the industry sector and product format (e.g., 95 percent of DVDs in China are pirate). The estimated trade losses due to copyright piracy by the Chinese industry are: business software, \$1.3 billion; entertainment software, \$589.9 million; motion pictures, \$244 million; records and music, \$204 million; and books \$52 million. Market access restrictions by the Government of China have exacerbated the piracy problem by severely restricting the supply of legal filmed entertainment. Market access restrictions imposed by the Government of China include: (i) one state-run monopoly controls a single importer and two film distributors; (ii) an unreasonably low quota of only twenty international films a year into the market on revenue sharing terms; (iii) the government determines box office revenue share; (iv) limits on retail sale of legal home entertainment; and (v) government-imposed restrictions on foreign investment, foreign channel carriage, and programming content in television sector. These restrictions on foreign audio-visual products effectively leave the China market to the pirates who fill the void resulting from government delays and limited legitimate foreign access to the market. Pirates comply with none of the government's regulations and

restrictions, while capturing at least 95 percent of the U.S. audiovisual industry market's sales in China. The lack of effective IPR protection is in violation of Articles 41 and Article 61 of the TRIPs Agreement. China's IPR violations have been documented extensively by the Bush Administration: 2001 NTE (55-58), 2002 NTE (56-59), 2003 NTE (58-60), 2004 NTE (72-75), 2005 NTE (95-100).

- **Actions:** To encourage China to live up to its WTO commitments, **USTR should** (1) immediately request consultations under the WTO Agreement on TRIPs; (2) commence a dispute resolution case under WTO procedures if the problem cannot be resolved in the 60-day consultation period; and (3) place China on the U.S. government's Special 301 "Priority Watch List" of countries that present significant piracy problems for U.S. copyright holders.

- **Indonesia - Non-enforcement of U.S. copyrights and trademarks**

- **Barrier to U.S. exports and IPR protection:** Piracy remains rampant in Indonesia at a rate of 92 percent of the market, with the growing pirate DVD market overtaking the pirate video compact disc (VCD) market. There is also indication that Indonesia is emerging as a base for the export of pirate DVDs. In 2005, the estimated loss in revenues for the United States due to copyright piracy was about \$154 million. These estimated trade losses for the U.S. industry include: business software, 97.9 million; books \$32 million; and records and music, \$24.5 million. A number of legislative changes in 2003, and the implementation of the Optical Disc Regulations in 2004/2005, have updated Indonesia's legislative protection of intellectual property. However, the effective enforcement of intellectual property rights continues to be a critical concern in Indonesia and is in violation of Articles 41 and 61 of the TRIPs Agreement. Indonesia's IPR violations have been documented extensively by the Bush Administration: 2001 NTE (194-196), 2002 NTE (191-193), 2003 NTE (184-186), 2004 NTE (231-233), 2005 NTE (218-283).

- **Actions:** To encourage Indonesia to live up to its WTO commitments, **USTR should** (1) immediately request consultations under the WTO Agreement on (TRIPs); (2) commence a dispute resolution case under WTO procedures if the problem cannot be resolved in the 60-day consultation period; and (3) continue to maintain Indonesia on the U.S. government's Special 301 "Priority Watch List" of countries that present significant piracy problems for U.S. copyright holders.

- **Japan - Non-tariff barriers to U.S. autos and auto parts**

- **Trade distortion:** In 2005, the United States had a nearly \$50 billion in auto and auto parts trade deficit with Japan, more than 66 percent of total trade deficit with Japan and nearly 8 percent of the total U.S. trade deficit. U.S. automakers sell less than a quarter as many U.S.-made vehicles in Japan as they did in 1995,

notwithstanding that American automakers have invested in Japanese auto manufacturers. Japan levies a 5 percent consumption tax on autos with an additional acquisition tax of 5 percent on automobiles for private use and 3 percent on minivehicles and automobiles for business use. U.S. exports of autos and auto parts declined by about 30 percent in 2004 over 2003 exports.

Japan continues to block imports of U.S. auto parts using a combination of non-tariff barriers. For example, Japan continues to restrict the number of garages that can perform service repairs through its "certified garage" and "designated garage" system. The vast majority-80 percent- of aftermarket parts and services sales are controlled by dealerships affiliated with Original Equipment Manufacturers (OEMs), which are inclined to buy and sell auto parts from closely related Japanese auto companies. The reverse is true in the United States, where only 20 percent of aftermarket parts and services sales are controlled by OEM-affiliated garages or dealerships. In 1995, Japan agreed to open the auto services market by certifying more independent, non-OEM-affiliated garages, such as U.S. auto affiliates. However, this promise has not been realized. By largely excluding the U.S. auto and auto parts industries from the Japanese market, Japanese auto parts companies and affiliated auto companies gain from excessive prices and diminished competition. These barriers have been identified by the Bush Administration for five years running, yet it has taken no effective action to fix the problem: 2001 NTE (255-256), 2002 NTE (242), 2003 NTE (225), 2004 NTE (274), 2005 NTE (337-338).

- **Actions:** Several of Japan's non-tariff barriers in this sector are inconsistent with WTO requirements. Others are actionable under section 301 of the Trade Act of 1974. The Bush Administration has failed to renew the U.S.-Japan Auto Agreement, which expired on December 31, 2000, leaving auto and auto parts discussions with Japan to an "Automotive Consultative Group (ACT)." The ACT has not been an effective forum to date in persuading Japan to open its market. **USTR should take the following steps:** (1) initiate an investigation under section 301 into Japan's auto and auto parts barriers; (2) use the investigation to catalogue Japan's barriers; (3) seek a comprehensive market-opening agreement; and (4) if that is not possible in a short period of time, utilize the WTO dispute settlement system against each barrier that is a WTO violation and section 301 against barriers that are not.
- **Japan - Ongoing currency manipulation undercuts U.S. exports**
 - **Trade Distortion:** While the issue of China's exchange rate practices has received much attention, Japan's "intervention" in currency markets has been largely ignored. In 2003, the Government of Japan spent over \$190 billion intervening in currency markets to prevent the dollar from falling against the yen.

Japan is also reported to have intervened in 2004, bringing the total amount spent in 2003 and 2004 to more than \$325 billion. Although Japan did not intervene in the currency markets in 2005, Japanese officials' repeated threats that they would do so have served to keep the yen artificially low. Such signals put pressure on the currency markets, giving Japanese exporters a 15-20 percent advantage in Japan, United States, and around the world.

- **Actions: The Administration should take the following steps.** (1) In its April report on currency manipulation, Treasury should finally cite Japan for its exchange rate interventions as required by U.S. law. (2) Per statute, Treasury should then initiate intensive consultations to end Japan's exchange rate manipulation "on an expedited basis." Given the clear and egregious nature of Japan's manipulation and its impact on U.S. firms and workers, the problem should be addressed within 180 days. (3) If the problem is not resolved by that time, USTR should then immediately initiate consultations under the WTO dispute resolution system, based on Articles XV, XVI and XXIII:1(b) of GATT 1994, and (4) If these consultations do not yield a satisfactory outcome in the consultative period, the U.S. should immediately file an action in the WTO.

- **South Korea - Discriminatory taxes and non-tariff barriers close auto market**
 - **Barrier to U.S. exports:** South Korea is the world's fifth largest automobile producer, yet maintains one of the most closed automobile markets in the world. Korea's trade barriers have resulted in its imports from all sources to have only 2 to 3 percent share of the Korean market. In contrast, Korean auto exports make up to 5 to 6 percent of the U.S. auto market. United States imported 93,653 autos from South Korea in 2005, and exported 309 autos to South Korea in that year. Existing Korean restrictions include: consumption taxes, environmental regulation, and certification standards as well as an 8 percent import tariff. The United States concluded two separate automotive agreements with Korea in 1995 and 1998. In the 1998 agreement, Korea agreed to reduce taxes prejudicial to imported automobiles by addressing tax, safety, and environmental standards and certification procedures that hinder U.S. imports. Per the 1998 agreement, Korea has yet to reduce the 30 percent consumption tax nor has it streamlined its measures regarding standards and certification procedures which would allow U.S. manufacturers to certify their own products and streamline their own safety certification system. Korea instead has created new standards and certification barriers. These non-tariff barriers hinder the exportation of U.S. autos to the Korean market. These barriers have been identified by the Bush Administration for five years running, yet it has taken no effective action to redress or eliminate these non-tariff barriers: 2001 NTE (293), 2002 NTE (256), 2003 NTE (240), 2004 NTE (313-314), NTE 2005 (388-389).

- **Actions:** In 1995 and 1998, the Clinton Administration entered into agreements with South Korea to address some of these issues, a number of which violate the WTO “national treatment” obligation. These agreements, while not perfect, led to progress. By contrast, five years of inaction by the Bush Administration has led South Korea to believe that it can maintain its closed market with impunity. In February 2006, the Administration announced that it intended to negotiate a free trade agreement with South Korea. The Administration should ensure that non-tariff barriers that are prevalent in regulatory, standard-setting and administrative government actions be eliminated to enhance transparency in the auto and auto parts market in Korea. However, for the more immediate future and using as leverage to obtain a more open market for American products in Korea, **USTR should take the following steps:** (1) begin immediate action under the WTO dispute resolution system to address barriers that are inconsistent with South Korea’s national treatment obligations; (2) begin a section 301 investigation to (a) compile a comprehensive up-to-date list of South Korea’s market access barriers and (b) use this list to build on South Korea’s 1995 and 1998 commitments by negotiating an updated and comprehensive performance-based agreement to open South Korea’s auto market.

- **Malaysia - IPR violations hurt U.S. recording industry**

- **Barrier to U.S. Exports and IPR Protection:** Optical disc piracy, both at the retail and export levels, is a significant problem in Malaysia, despite some concrete steps taken by the government to address the situation. Malaysia remains one of the major producers and suppliers of pirate optical discs because enforcement at the factory level is still insufficient. Licensed and unlicensed factories continue to produce pirated products. The licensed factories alone contain enough production lines to produce over 300 million discs a year. Though the trade losses due to copyright piracy have declined from \$55.5 million in 2004, to \$39 million in 2005, the disc production over-capacity presents enormous challenges to the Malaysian Government both in terms of saturation of the domestic market by pirate product as well as in terms of massive export piracy. Malaysian government raiding against piracy has increased; however, prosecution is still ineffective and the government is not fully utilizing the Optical Disc Act to enforce against licensed optical disc factories engaging in piracy. The Copyright Act also needs further revision to protect against Internet piracy of audiovisual works. The lack of effective IPR protection is in violation of Articles 41 and 61 of the TRIPs Agreement. Malaysia’s IPR violations have been documented by the Bush Administration: 2001 NTE (300-301), 2002 NTE (286-287), 2003 NTE (266-267), 2004 NTE (321-323), 2005 NTE (404-407).

- Actions:** In March 2006, the Administration announced that it intended to negotiate a free trade agreement with Malaysia. The Administration should ensure that Malaysia lives up to its WTO commitments. However, to use as leverage in this effort, **USTR should (1)** immediately request consultations under the WTO Agreement on (TRIPs); **(2)** commence a dispute resolution case under WTO procedures if the problem cannot be resolved in the 60-day consultation period; and **(3)** continue to retain Malaysia on the U.S. government's Special 301 "Watch List" of countries that present significant piracy problems for U.S. copyright holders.
- Mexico - IPR violations hurt U.S. motion picture industry and music and recording industry**

 - Lack of IPR protection:** Optical disc piracy in Mexico is among the worst in the world and getting worse. Annual losses to the US motion picture industry due to audiovisual piracy in Mexico were estimated to be \$140 million in 2004, which increased to \$483 million in 2005, a piracy level of 62 percent. The dramatic increase is due to the tremendous surge of pirate product available in the system of street markets. Raids and seizures have had virtually no impact on the main distribution centers such as the Tepito market, one of the largest pirate goods markets in the world. For the recording industry, Mexico continues to be one of the top ten pirate markets in the world. Burned CD-Rs and DVD-Rs are the format of choice for almost all pirates. Recording and music piracy in Mexico represent \$376.5 million in losses in 2005 and cover about 65 percent of all units sold in the country. Unauthorized camcording of films in theaters is also increasing in Mexico. Even though seizures of optical discs by the Attorney General (PGR) set a record in 2004, these substantial increases in seizures most likely will not reduce piracy without effective prosecution and deterrent sentences. The lack of effective IPR protection is in violation of Articles 41 and 61 of the TRIPs Agreement. Mexico's IPR violations have been documented extensively by the Bush Administration: 2001 NTE (309-311), 2002 NTE (296-297), 2003 NTE (276-277), 2004 NTE (333-335), 2005 NTE (418-421).
 - Actions:** To encourage Mexico to live up to its WTO commitments, **USTR should (1)** immediately request consultations under the WTO Agreement on TRIPs; **(2)** commence a dispute resolution case under WTO procedures if the problem cannot be resolved in the 60-day consultation period; and **(3)** continue to retain Mexico on the U.S. government's Special 301 "Watch List" of countries that present significant piracy problems for U.S. copyright holders.
- Russia - U.S. Special 301 to deal with priority IPR practices**

- **Barrier to U.S. exports and IPR protection:** Russia's copyright piracy problem is one of the most serious in the world, with estimated losses to U.S. copyright industries in excess of \$1.7 billion in 2005, and well over \$6.5 billion in just the last five years. For nine straight years, Russia has been on the Priority Watch List, while the number of optical disc plants producing illegal material and exporting it abroad has grown exponentially-- from 2 plants in 1996, to 47 plants as of January 2006. In the past four years, the number of optical disc (CD and/or DVD) plants in Russia has more than tripled. These plants are, in essence, unregulated with only a handful subject to surprise inspections or seizure of material and few have been subject to imposition of effective criminal enforcement for commercial piracy or seizure of the equipment used in illegal production. The Government of Russia could be two weeks away from sending recommendations to the Duma that would annul all of Russia's intellectual property laws, including the detailed copyright law, with civil code that would likely represent a setback for effective enforcement of at least two years.

As a GSP recipient, Russia is required to provide adequate protection for U.S. copyright holders. U.S. efforts to date to urge the Russian government to enforce its own copyright laws have been weak and ineffective; USTR has not even been willing to identify Russia as a Priority Foreign Country under Special 301. Russia's IPR violations have been noted by the Bush Administration: 2001 NTE (382), 2002P NTE (367-368), 2003 NTE (335-336), 2004 NTE (410-411), 2005 NTE (522-524).

- **Actions: USTR should take three steps:** (1) designate Russia as a Priority Foreign Country and take action under Special 301 if Russia's IPR violations continue; (2) ensure that Russia makes substantial progress in this area before joining the WTO; and (3) suspend Russia's eligibility for any duty-free trade benefits that it enjoys under the GSP program.
- **UK - Aero-engine Subsidies**
 - **Subsidies to Rolls Royce's production of engines for large civil aircraft are WTO-inconsistent:** The U.S. industry producing engines for large civil aircraft is strategically and technologically critical and supports tens of thousands of high-quality jobs. The adverse effects for the U.S. industry due to the subsidization of the production of engines in the United Kingdom are huge and include: (1) the loss of new engine sales, (2) loss of an estimated \$700 million annually in revenues due to price suppression, and (3) lost aftermarket business on engines in service, estimated at about \$600 million per year. These subsidies violate the provisions in Articles 5 and 6 of Part III of the Agreement on Subsidies and Countervailing Measures. The United Kingdom's subsidies to Rolls Royce have

been noted in the last four NTE reports published by the Bush Administration: 2002 NTE (123-124), 2003 NTE (122), 2004 NTE (152-153), 2005 NTE (214-215).

- **Actions:** To encourage the U.K. to live up to its WTO commitments, **USTR should** (1) immediately request consultations under the WTO Agreement on Agreement on Subsidies and Countervailing Measures; and (2) commence a dispute resolution case under WTO procedures if the problem cannot be resolved in the 60-day consultation period.

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DEMOCRATIC STAFF COMMITTEE ON WAYS AND MEANS

DATE: March 31, 2006

TO: The President

FROM: Members of Congress

Cover Sheet plus 15 page(s) to follow

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