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Ms. Charlene Barshefsky, U.S. Trade Representative
C/o Ms. Gloria Blue, Secretary of the Trade Policy Staff Committee
Office of the U.S. Trade Representative
600 17th Street, N.W. Washington, D.C. 20508

Re: FR Doc. 98-22279

Dear Charlene Barshefsky,

In response to the notice appearing in the Federal Register on August 19, 1998 (FR Doc 98-22279), we offer the following comments. We hope that this invitation for comment will be the starting point for a vigorous and serious debate about trade and the role of the US in the world economy.

As a non-profit public policy institute with a deep commitment to agriculture and rural communities, the Institute for Agriculture and Trade Policy is based far from Washington and close to where our trade policy hits the ground: the Upper Mid-West. We welcome the chance to be a part of US preparations for our role as host to the next WTO Ministerial. The following comments relate first to procedure, and then to substance. The substantive comments are focused on the WTO Agreements on Agriculture, Sanitary and Phytosanitary Standards (SPS), and intellectual property rights (TRIPS).

Process

We hope that the US' consistent, and welcome, calls for increased transparency in the workings of the WTO will not become a way to allow international companies yet more access to these decision-making processes, while continuing to block less well funded citizen attempts to be heard.

Our concerns in this area have some basis. For example, the support given by your office and the Department of Commerce to the Trans-Atlantic Business Dialogue (TABD) stands in marked contrast to the hasty and ill-considered attempt of the USTR to recruit non-governmental organizations (NGOs) sympathetic to US trade policy positions in a consultation process with other sectors of civil society for the Transatlantic Economic Partnership. Indeed, as witnessed by the Transatlantic Dialogue on Sustainable Development, the agenda has been predetermined by corporations belonging to TABD.

As a result, the US finds itself ill-prepared to respond to innovative trade policy initiatives such as the European Union's proposal for a High-Level Meeting on Trade and Environment at the World Trade Organization. Whereas the European Union had consulted extensively and substantively with over 200 NGOs in preparing that proposal, the US has shown neither the willingness nor the staff nor the funding in competent agencies to structure such a consultative process. If the US insists upon

including private commercial interests in its preparatory processes, it should at the very least afford equal opportunity to non-business sectors of civil society to debate and formulate our trade policy objectives.

We propose that your office host public meetings across the country in preparation for the Third Ministerial Conference. Washington and Geneva are both far from the lives of most American citizens. Yet the impact of our trade policy is felt everywhere. Working in Minnesota, where both corporate agri-business and farmers are a dominant part of the economy, perhaps the only thing that dismays farmers more than the refusal of agribusiness to pay prices that incorporate the costs of production for their products is their perception that agricultural trade policy is designed to benefit agribusiness while farmers barely survive, if at all. Certainly a comparison of return on equity for agribusiness with farmgate incomes for the great majority of farmers, as reported in the US Department of Agriculture (USDA) data, supports that perception. The lack of consultation with farmers and rural communities affected by US agricultural trade and research policy contrasts bitterly with the revolving door of agribusiness executives making and implementing policy in and out of the USDA and other commerce agencies. For every farmer and rural resident that joins the never-ending chorus of accusations orchestrated against "unfair trade partners", there are many more who would like to see reform of anti-farmer agricultural trade policy begin at home.

It is essential for the US to demonstrate to the world its genuine commitment to democratic process by seeking to be heard by, and to hear from, its own citizens. The continued failure of the administration to gain the fast-track authority it seeks speaks volumes about how ambiguous this long-time trading nation has become about the current direction and impact of our economic policy.

The administration seems persuaded that deregulated liberal trade is the answer to the US' economic needs. The US public, however, does not. Your own speech to the National Association of Business Economists last week reflected your concern that the public is increasingly critical of free trade. For the US to carry a legitimate platform — that is, one reflective of a broad spectrum of US public interests — into any new international trading round will require a great deal more homework than we have seen to date. We look forward to the opportunity to meet with you and your staff, and trust that these meetings will be meaningful and substantive. This will require preparation time and follow-up, not a one hour briefing in Washington DC, in which your office presents its strategy and allows 15 minutes for questions at the end.

On the other hand, a series of public hearings held in a dozen major cities around the country would allow both proponents of your office's trade policy and its critics to discuss their differences and to move towards better resolution of them.

In addition, we propose that the US set an example to other WTO member states by making the Ministerial as accessible to the public and accredited non-governmental participants as possible. As with other areas of US international policy, it is time to consider NGO participation on WTO delegations. The US would not be a path-breaker in this regard; other countries including Norway and Switzerland, have shown the way.

Likewise, we encourage your office to ensure that there is adequate meeting space for NGO delegations within the same building as the official conference hall during the Ministerial, to ensure that there are ample computer and copying facilities, and to otherwise enable accredited NGOs to participate as observers in a professional manner.

The WTO Agreements on Agriculture and SPS

The US Secretary of Agriculture emphasized six key areas for new negotiations on agriculture at the WTO in his presentation to the US House of Representatives Committee on Agriculture in March this year: a) further reduction in tariffs; b) an "effective elimination" of tariff-rate quotas; c) a further cut or elimination of export subsidies; d) rigorous disciplines on state-trading enterprises; e) tighter disciplines on the use of technical measures, such as unnecessarily rigid labeling requirements; and f) tighter rules on SPS measures.

His language and that of you and your staff at presentations for agri-business in Geneva on the occasion of the Second WTO Trade Ministerial, suggest that the US is already clear on its agenda for the next round. Yet the farmers we work with, and the farmers from many parts of the world with whom we collaborate, have evaluated the effect of the Uruguay Round Agreement on Agriculture differently. What do we find? Wild and debilitating price fluctuations and a collapse in the demand for US farm products. Our domestic agriculture policy failure, together with the ever less regulated world of international trade, has forced the government to propose legislation offering billions of dollars to farmers on the brink of bankruptcy. The money is essential, but the billions alleviate a symptom, not the problem itself. At the same time, millions of Asians are now facing chronic food insecurity, their dependence on the world market brought savagely home to them by currency devaluations. Are these indications that more of the same is what we need? We would like to see an honest debate in the administration about who is served by the outcome of policies geared at export expansion in a liberalized market.

A domestic farm policy led by trade demands has failed countless people, some of them very seriously. I hope that your office will be willing to reconsider a number of areas, some of them mentioned here,

a) Public health must be a non-negotiable issue. This means respecting the European Union's rejection of genetically-modified organisms and artificial hormones in meat, whether or not our "science" agrees with theirs. There are two issues. The first is about the debate here in the US. The truth is that many of our own scientists, together with concerned consumers, environmentalists and citizens have very strong reservations about biotechnology and an increasingly industrialized and monopoly-dominated food sector. They are shocked at the way in which the USDA and USTR are propagating the products of a handful of companies while ignoring principles espoused by our government elsewhere -- such as the Precautionary Principle embraced in the Rio Declaration of 1992. Your office does not miss an opportunity to link the promotion of biotechnology with the economic health of our country and the ability to end world hunger. This assurance betrays either ignorance or indifference to the real causes of hunger in the world. This week it was announced that Amartya Sen, Master of Trinity College, Cambridge, has been awarded the Nobel Prize for Economics. His work has shown that famine is linked not to scarcity in the food supply but to drops in the income level of the poor. His reasoning has profound relevance here in the US, where very high levels of wealth, and more food than we can afford to store, sit side by side with inexcusable levels of malnutrition. Does the US want to promote the biotechnology industry or address hunger in the world? The two are not an easy fit. Secondly, we must uphold the sovereign and democratic right of all nations to determine their own health and safety standards. It is not for us to determine what other people choose to eat, nor how they control their food supply. Will we accept that others do that for the US? We find that extremely unlikely, thankfully.

b) The US must pledge its resources to upgrading healthy and safe production systems around the world and promote the active use of labels that inform consumers about the health and safety-related characteristics of the products they are buying. Production and processing methods (PPMs) are too central to ignore and the US needs to use its resources to assist developing countries to meet strong standards rather than bully the European Union to abandon its concerns. Where governments lack the infrastructure or technical capacity to meet high standards for healthful and ecological production of foods, they should be assisted with financing as well as scientific and other specialized expertise to enable them to bring their production systems up to code, rather than excluding them from the global marketplace. Such exclusion, in the short run, may bring additional revenues to the transnationals ready to take over new markets, but in the long run will jeopardize food security and food safety for major portions of the planet.

c) The US should unilaterally implement Article VI of the original GATT and immediately cease dumping our agricultural exports. As the attached paper, US Agricultural Export Dumping Monitor shows, the US consistently dumps products, particularly wheat and cotton, in the world market — that is, its exports are sold for less than the cost of production (as measured by the USDA Economic Research Service). This issue is not just one of export subsidies, but rather the combined effect of economic policies in our agriculture system. If the USTR is interested in promoting "a level playing field" and ending the debilitating effect of cheap foodstuffs on producers in other countries, it is essential that we develop a coherent framework for evaluating the full cost of production (including ecological costs) and adjust our pricing structure accordingly. This can be done as a domestic matter to ensure fairness to US farmers but, given our share of the global market, it will also pull up the world price enabling farmers in other countries to survive in the highly competitive global market. Appropriate aid packages must be designed as well to enable net food importing countries to afford their food bills while rebuilding their own domestic production capacity.

d) The US should cease its attack on state-trading enterprises (STEs). Is the USTR actually concerned about the role of the state in state-owned enterprises? Or with the lack of competition they represent? While some STEs may not compete "fairly" on the world market, the US fails to discipline the handful of companies, mostly US-based, that dominate world grain markets — making a mockery of the "free entry" and "perfect information" principles upon which our market-led trade policy is premised. It would seem that this is where the discussion should start, not least because of the damaging consequences the oligopsonic nature of the market has had on US farmers.

e) USTR should back the calls for a serious review of the implementation of the existing Agreement on Agriculture as called for in Article 20. Many countries, already food insecure in 1994, face rising food import bills and, in some cases, serious domestic instability as a result of their dependence on the world market for their food supply — Indonesia being the most dramatic but certainly not the only example. The promise of the WTO at its inception has not been realized for many of the world's hungriest people. Non-implementation of the "Marrakech Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net Food-Importing Developing Countries", on the grounds that no causal link can be shown between the WTO Agreement on Agriculture and the price volatility and increased food insecurity of many countries, is a violation of the Uruguay Round agreements every bit as consequential and actionable as selling pirated technology or dumping steel and barley. The question before the WTO Committee on Agriculture is not: did the WTO agreement cause an increase in the food import bills of poor countries? Rather, the question is: have poor food importing countries become less able to secure the food they need to feed their people? While committee members discuss just what has caused the increasing hunger, riots shake capital cities and many, many people simply die quietly. Your commitment to

support an even more liberal trade system as an answer to this problem flies in the face of the evidence. Your credibility, in any case, depends upon answering the evident problems arising from liberalism to date. The US should use its leadership to enforce full implementation of this Marrakech Decision.

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The US should refrain from using its economic power to oblige other countries to exceed TRIPS present requirements. Your office makes enforcement of intellectual property rights (IPR) one of its top foreign policy priorities as can be seen with the regular publication of a "Watch List" of those governments deemed to be dragging their feet in upgrading their national IPR laws. All too often, this process is overly zealous, engaging the State Department as well in a process of intimidation to hasten their compliance with TRIPS ahead of negotiated and agreed schedules.

A case in point occurred on April 21, 1997, when the State Department advised the Royal Thai Government that its draft legislation allowing Thai healers to register traditional medicines "could constitute a possible violation of TRIPS and hamper medical research into these compounds" — despite the fact that Thailand is not obliged to comply with TRIPS until 2000 and TRIPS specifically allows WTO members to exempt medical practices from patentability. India, Pakistan, Ecuador, Argentina and other countries have also been harassed by Washington agencies to hasten their domestic democratic processes of changing IPR laws ahead of the TRIPS deadline. Indeed, in the pre-negotiation phases of your office's pursuit of a Free Trade Agreement of the Americas, US representatives have made it clear that all of Latin America should enact "TRIPS-Plus" legislation that goes well beyond what is mandated by current international agreements.

The U.S. should also give up its effort to tighten the present TRIPS requirements regarding the patenting of life. Article 27.3(b) of TRIPS allows WTO members to exclude plants and animals and essentially biological process for the production of plants and animals from patentability. This deference to national sovereignty, which is fully articulated in the Convention on Biological Diversity, ought not be abridged during the 1999 review of this subparagraph in the TRIPS Agreement. Furthermore, there are sound ecological and socio-economic reasons why the privatization of plants and animals via the patent system is contrary to the conservation and sustainable use of biodiversity and, indeed, jeopardizes human food security. Patents and other IPR protection on seeds can destroy public plant breeding, hasten genetic erosion, and put poor farmers out of business. Patents and other IPR regimes require the payment of royalties to transnational corporations, accelerating the outflow of foreign exchange and worsening the already dire balance of payments position of many countries throughout the world. If anything, the right of nations to exclude life forms from patentability ought to be extended to micro-organisms during the 1999 review of TRIPS Article 27.3(b).

Thank you for this opportunity to comment on these matters, which will certainly be on the minds of many delegates attending the Third Ministerial Conference of the WTO next year. We appreciate your attention to these considerations and look forward to working with your office in the coming year to prepare for our role as hosts.

Sincerely,
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