met and will notify the PRC that the United States is exercising its unilateral authority under Article IV(5) of the Agreement to raise the quota set out in Article II(b)(ii) or relax the bunching provision described in Article II(b)(vi) in order to permit the launch by a PRC launch service provider.

If, at the end of the ten-day period described above, USTR had not indicated to the certifying entity that additional information is required to satisfy USTR that the facts as described in the certification are correct, then USTR will, within an additional ten working days, determine that one of the conditions listed in Article IV(5) of the Agreement has been met and will notify the PRC that the United States is exercising its unilateral authority under Article IV(5) of the Agreement to raise the quota set out in Article II(b)(ii) or relax the bunching provision described in Article II(b)(vi) in order to permit the launch by a PRC launch service provider.

4. Price Compliance

The Agreement allows the PRC to offer launch services at prices "on a par with those prices, terms and conditions prevailing in the international market for comparable commercial launch services" as stipulated in Article II(B)(iv).

The Agreement further describes the following mechanism that will be utilized in applying the "par-pricing" requirement for launches to GEO. Article II(B)(iv)(a) states that an unadjusted PRC price falling within 15 percent of the lowest Western price will be assumed to be in compliance with the Agreement. That assumption will only be reviewed if clear evidence to the contrary is presented to the Subcommittee. In those instances in which the price differential is greater than 15 percent, PRC compliance with the "par pricing" obligation will be evaluated in light of the comparability factors and values contained in Annex II of the Agreement. The U.S. intends to make a preliminary evaluation prior to any decision to request special consultations.

Its is important to note that the 15 percent price differential is only applicable to the difference between Western and PRC offer prices. If a PRC offer price is more than 15 percent less than the lowest Western price, the relevant comparability adjustments described in Annex II will be made to the unadjusted PRC or Western offer prices, as appropriate. Comparison will then be made of the PRC and Western prices adjusted only for the relevant

comparability factors, and not for the 15 percent price differential as well.

5. Low Earth Orbit (LEO) Provisions

In light of the emergence of the remote-sensing and weather-tracking market for launches to LEO since 1989 and commercial plans for the deployment of telecommunications satellite constellations into LEO beginning in 1997, the Agreement contains specific disciplines and guidelines regarding Chinese launches to LEO in Article II(B)(iii).

Pursuant to that Article, legitimate behavior in the international market for commercial launch services is governed by the following norms of behavior previously developed for the GEO market: (i) Market principles including avoidance of below-cost pricing, government inducements and unfair business practices; (ii) the use of government supports in a manner consistent with practices prevailing in the international market; (iii) the need to "price on a par" with the prices offered by commercial launch service providers from market economy countries including the United States; (iv) the need to act in a manner consistent with prevailing practices in international markets with respect to insurance or reflight guarantees; and (v) avoidance of unfair discrimination against any international customer or supplier. PRC participation will be consistent with significant U.S. participation in the development of the LEO market and such participation by the PRC will be proportionate and non-

In evaluating Chinese compliance with the above provisions as they pertain to LEO communications satellite constellations, the U.S. will be guided first with respect to the initial deployment of such constellations by the level of participation of providers from countries with whom the U.S. has bilateral space launch agreements. Accordingly, the Subcommittee will review proposals for the initial deployment of a LEO communications satellite constellation in order to determine if, in such proposals, the overall level of participation by launch service providers in countries with whom the U.S. has concluded a bilateral launch services agreement is more than 50 percent of the participation of market economy launch service providers (as measured according to the distribution of payloads).

In deciding whether a situation in which more than 50 percent of the initial deployment has been granted to countries with whom the U.S. has concluded bilateral space launch

agreements raises concerns regarding PRC compliance with its LEO commitments, the Subcommittee may take into account certain other factors including: (i) The extent of PRC and U.S. participation in the deployment; (ii) launch scheduling requirements and the need to optimize launch vehicle selection to meet deployment or operational requirements; (iii) the availability of competitively-priced market economy launches to meet these requirements; (iv) opportunities made available to the parties for participation in the replacement market; (v) reasonable considerations by the proposed system operator regarding commercial risk sharing ("commercial risk sharing" is defined to include equity participation arrangements); and (vi) customers' requirements.

The U.S. Government understands that the scope and complexity of these LEO satellite communications constellations makes these potential ventures particularly sensitive to delays. Consistent with the commitment to ensure a balance among all segments of the U.S. private sector participating in space, the Subcommittee intends to conduct reviews of LEO satellite communications constellations expeditiously so as to avoid unnecessary uncertainty in the market place.

6. Discussions With Other International Parties

At least annually, the Subcommittee will consider whether discussions with other international parties could be beneficial. If the Subcommittee determines that discussions could be beneficial, it will recommend to the TPSC and to the U.S. Trade Representative that such discussions be initiated.

IV. Consultations With Domestic Interests

The Subcommittee and the Working Group will, in carrying out the functions and procedures set forth in Section III above, consult with and seek the advice of representatives of U.S. commercial launch service providers, launch vehicle manufacturers and satellite manufacturers and operators, and, as appropriate, interested Congressional committees, the user community, and other interested parties, including the relevant private sector advisory committees. Such contacts will be made in conjunction with the information and assessments referred to in Section III(1) above and U.S. preparation for, and follow-up on, the results of consultations with the PRC held under the Agreement. The Subcommittee will