

# EXPORT ADMINISTRATION ACT AMENDMENTS

---

---

## HEARING BEFORE THE COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

NINETY-SECOND CONGRESS

SECOND SESSION

ON

### S. 3726

TO EXTEND AND AMEND THE EXPORT ADMINISTRATION  
ACT OF 1969 TO AFFORD MORE EQUAL EXPORT OPPOR-  
TUNITY, TO ESTABLISH A COUNCIL ON INTERNATIONAL  
ECONOMIC POLICY, AND FOR OTHER PURPOSES

---

JULY 19, 1972



Printed for the use of the Committee on Foreign Relations

U.S. GOVERNMENT PRINTING OFFICE

81-190 O

WASHINGTON : 1972

**COMMITTEE ON FOREIGN RELATIONS**

**J. W. FULBRIGHT, Arkansas, *Chairman***

**JOHN SPARKMAN, Alabama**

**MIKE MANSFIELD, Montana**

**FRANK CHURCH, Idaho**

**STUART SYMINGTON, Missouri**

**CLAIBORNE PELL, Rhode Island**

**GALE W. MCGEE, Wyoming**

**EDMUND S. MUSKIE, Maine**

**WILLIAM B. SPONG, Jr., Virginia**

**GEORGE D. AIKEN, Vermont**

**CLIFFORD P. CASE, New Jersey**

**JOHN SHERMAN COOPER, Kentucky**

**JACOB K. JAVITS, New York**

**HUGH SCOTT, Pennsylvania**

**JAMES B. PEARSON, Kansas**

**CHARLES H. PERCY, Illinois**

**CARL MARCY, *Chief of Staff***

**ARTHUR M. KUHL, *Chief Clerk***

(II)

## CONTENTS

---

Statement by:		
Carlucci, Frank C., Deputy Director, Office of Management and Budget.....		Page 6
Insertions for the record:		
Text of S. 3726, 92d Congress, 2d session.....		1
Prepared statement of Frank C. Carlucci, Deputy Director, Office of Management and Budget.....		8
Letter to Hon. Caspar W. Weinberger, Director, Office of Management and Budget, from Senator J. W. Fulbright, June 28, 1972.....		10
Letter enclosing statement by the National Association of Secondary Material Industries, Inc., on S. 3726, to Senator J. W. Fulbright from David J. Muchow, July 14, 1972.....		11
Summary of organization and functions of Council on International Economic Policy, supplied by OMB.....		30

(iii)

# EXPORT ADMINISTRATION ACT AMENDMENTS

WEDNESDAY, JULY 19, 1972

UNITED STATES SENATE,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, D.C.*

The committee met, pursuant to notice, at 10:10 a.m., in room S-116, the Capitol Building, Senator John Sparkman presiding.

Present: Senators Sparkman, McGee, Aiken, Case, Scott, and Percy. Senator SPARKMAN. Let the committee come to order, please.

We expect other Senators in but, as all of you know, the Senate is in session and I don't know what kind of interruptions we may have. So I think we had better get started.

## OPENING STATEMENT

The committee is holding a public hearing this morning to receive testimony on S. 3726, a bill extending the Export Administration Act of 1969 and one which provides statutory authority for the President's Council on International Economic Policy (CIEP).

The first title of the bill relates to the extension and amendment of the Export Administration Act, while title II of the bill is concerned entirely with the Council on International Economic Policy.

(Text of S. 3726 follows:)

[S. 3726, 92d Cong. second sess.]

A BILL To extend and amend the Export Administration Act of 1969 to afford more equal export opportunity, to establish a Council on International Economic Policy, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I—AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

SEC. 101. This title may be cited as the "Equal Export Opportunity Act".

SEC. 102. Section 2(3) of the Export Administration Act of 1969 is amended by inserting before the period at the end thereof a comma and the following: "particularly when export restrictions applied by the United States are more extensive than export restrictions imposed by countries with which the United States has defense treaty commitments".

SEC. 103. Section 3 of the Export Administration Act of 1969 is amended by adding at the end thereof the following:

"(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular articles, materials, or supplies, including technical data or other information, to United States export controls should be determined after review by and consultation with representatives of appropriate United States Government agencies and qualified experts from private industry."

SEC. 104. Section 4(b) of the Export Administration Act of 1969 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) The Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees established under section 5(c), shall undertake an investigation to determine which articles, materials, and supplies, including technical data and other information, should no longer be subject to export controls because of their significance to the national security of the United States. Notwithstanding the provisions of paragraph (1), the Secretary of Commerce shall remove unilateral export controls on the export from the United States of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, except that any such control may remain in effect if the Secretary of Commerce determines that adequate evidence has been presented to him demonstrating that the absence of such a control would constitute a threat to the national security of the United States. The nature of such evidence shall be included in the special report required by paragraph (4).

"(3) In conducting the investigation referred to in paragraph (2) and in taking the action required under such paragraph, the Secretary of Commerce shall give priority to those controls which apply to articles, materials, and supplies, including technical data and other information, for which there are significant potential export markets.

"(4) Not later than six months after the date of enactment of the Equal Export Opportunity Act, the Secretary of Commerce shall submit to the President and to the Congress a special report of actions taken under paragraphs (2) and (3). Such report shall contain—

"(A) a list of any articles, materials, and supplies, including technical data and other information, which are subject under this Act to export controls greater than those imposed by nations with which the United States has defense treaty commitments, and the reasons for such greater controls; and

"(B) a list of any procedures applicable to export licensing in the United States which are more burdensome than similar procedures utilized in nations with which the United States has defense treaty commitments, and the reasons for retaining such procedures in their present form."

SEC. 105. Section 5 of the Export Administration Act of 1969 is amended by adding at the end thereof the following:

"(c) (1) The Secretary of Commerce shall appoint a technical advisory committee for each group of articles, materials, and supplies, including technical data and other information, which—

"(A) is or may be made subject to export controls because of its significance to the national security of the United States; and

"(B) is difficult to evaluate for technical or strategic reasons.

Each such committee shall consist of representatives of United States industry and government who may be appointed for terms of not more than two years. No person serving on any such committee who is representative of industry shall serve on such committee for more than two consecutive years.

"(2) It shall be the duty and function of the technical advisory committee established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(d) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees shall be consulted with respect to the level of United States export controls applicable to all articles, materials, or supplies, including technical data or other information, including those whose export is subject to multilateral controls undertaken in cooperation with nations with which the United States has defense treaty commitments. Such committees shall also be consulted and kept fully informed of progress with respect to the investigation required by section 4(b) (2) of this Act. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

"(3) Any member of any such committee who is not an officer or employee of the United States shall be entitled to receive compensation at not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, during such time as he is engaged in the performance of his duties as a member. Each member may be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with his duties as a member.

"(4) Each such committee shall elect a chairman, and shall meet at the call of the Chairman but not less often than four times each year."

SEC. 106. Section 14 of the Export Administration Act of 1969 is amended by striking out "August 1, 1972" and inserting in lieu thereof "June 30, 1974".

SEC. 107. Nothing in this title shall be construed to require the release or publication of information which is classified pursuant to Executive order or to affect the confidentiality safeguards provided in section 7(c) of the Export Administration Act of 1969.

## TITLE II—COUNCIL ON INTERNATIONAL ECONOMIC POLICY

### SHORT TITLE

SEC. 201. This title may be cited as the "International Economic Policy Act of 1972".

### STATEMENT OF PURPOSES

SEC. 202. It is the purpose of this title to provide for closer Federal interagency coordination in the development of a more rational and orderly international economic policy for the United States.

### FINDINGS AND POLICY

SEC. 203. The Congress finds that there are many activities undertaken by various departments, agencies, and instrumentalities of the Federal Government which, in the aggregate, constitute the domestic and international economic policy of the United States. The Congress further finds that the objectives of the United States with respect to a sound and purposeful international economic policy can be better accomplished through the closer coordination of (1) domestic and foreign economic activity, and (2) in particular, that economic behavior which, taken together, constitutes United States international economic policy. Therefore this Act establishes a Council on International Economic Policy which will provide for—

(A) a clear top level focus for the full range of international economic issues; deal with international economic policies including trade, investment, balance of payments, and finance as a coherent whole;

(B) consistency between domestic and foreign economic policy; and

(C) close coordination with basic foreign policy objectives.

The Congress intends that the Council shall be provided with the opportunity to (i) investigate problems with respect to the coordination, implementation, and long-range development of international economic policy, and (ii) make appropriate findings and recommendations for the purpose of assisting in the development of a rational and orderly international economic policy for the United States.

### CREATION OF COUNCIL ON INTERNATIONAL ECONOMIC POLICY

SEC. 204. There is created in the Executive Office of the President a Council on International Economic Policy (hereinafter referred to in this title as the "Council").

### MEMBERSHIP

SEC. 205. The Council shall be composed of the following members and such additional members as the President may designate:

- (1) The President.
- (2) The Secretary of State.
- (3) The Secretary of the Treasury.
- (4) The Secretary of Defense.
- (5) The Secretary of Agriculture.
- (6) The Secretary of Commerce.

- (7) The Secretary of Labor.
- (8) The Director of the Office of Management and Budget.
- (9) The Chairman of the Council of Economic Advisers.
- (10) The Special Representative for Trade Negotiations.

The President shall be the Chairman of the Council and shall preside over the meetings of the Council; in his absence he may designate a member of the Council to preside in his place.

#### DUTIES OF THE COUNCIL

SEC. 206. Subject to the direction of the President, and in addition to performing such other functions as he may direct, it shall be the duty of the Council to—

- (1) assist and advise the President in the preparation of the International Economic Report required under section 207;
- (2) review the activities and the policies of the United States Government which indirectly or directly relate to international economics and, for the purpose of making recommendations to the President in connection therewith, consider with some degree of specificity the substance and scope of the international economic policy of the United States, which consideration shall include examination of the economic activities of (A) the various agencies, departments, and instrumentalities of the Federal Government, (B) the several States, and (C) private industry;
- (3) collect, analyze, and evaluate authoritative information, current and prospective, concerning international economic matters;
- (4) consider policies and programs for coordinating the activities of all the departments and agencies of the United States with one another for the purpose of accomplishing a more consistent international economic policy, and make recommendations to the President in connection therewith;
- (5) continually assess the progress and effectiveness of Federal efforts to carry out a consistent international economic policy; and
- (6) make recommendations to the President for domestic and foreign programs which will promote a more consistent international economic policy on the part of the United States and private industry. Recommendations under this paragraph shall include, but shall not be limited to, policy proposals relating to monetary mechanisms, foreign investment, trade, the balance of payments, foreign aid, taxes, international tourism and aviation, and international treaties and agreements relating to all such matters. In addition to other appropriate objectives, such policy proposals should be developed with a view toward—
  - (A) strengthening the United States competitive position in world trade;
  - (B) achieving equilibrium in international payment accounts of the United States;
  - (C) increasing exports of goods and services;
  - (D) protecting and improving the earnings of foreign investments;
  - (E) achieving freedom of movement of people, goods, capital, information, and technology on a reciprocal and worldwide basis; and
  - (F) increasing the real employment and income of workers and consumers on the basis of international economic activity.

#### REPORT

SEC. 207. (a) The President shall transmit to the Committee on Banking, Housing and Urban Affairs of the Senate, the Committee on Banking and Currency of the House of Representatives, and the Joint Economic Committee an annual report on the international economic position of the United States. Such report (hereinafter referred to as the "International Economic Report") shall be submitted not later than sixty days after the beginning of each regular session of the Congress, and shall include—

- (1) information and statistics describing characteristics of international economic activity and identifying significant current and foreseeable trends and developments;
- (2) a review of the international economic program of the Federal Government and a review of domestic and foreign economic conditions and

other significant matters affecting the balance of international payments of the United States and of their effect on the international trade, investment, financial, and monetary position of the United States; and

(3) a program for carrying out the policy objectives of this title, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the International Economic Report, each of which may include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the purposes and policy objectives set forth in this title.

#### EXECUTIVE DIRECTOR AND STAFF OF THE COUNCIL

SEC. 208. (a) The staff of the Council shall be headed by an Executive Director who shall be appointed by the President. It shall be the duty of the Executive Director to—

- (1) direct the activities of the Council staff,
- (2) develop the agenda and supporting materials for Council meetings and review all matters before the Council, and
- (3) establish a work program, including topics and the selection of individuals to carry out particular assignments.

(b) (1) With the approval of the Council, the Executive Director may appoint and fix the compensation of such staff personnel as he deems necessary. Except as provided in paragraph (2), the staff of the Council shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) With the approval of the Council, the Executive Director may appoint and fix the compensation of one officer at a rate of basic compensation not to exceed the rate provided for level IV of the Federal Executive Salary Schedule, and appoint and fix the compensation of two officers at rates of basic compensation not to exceed the rate provided for level V of the Federal Executive Salary Schedule.

(c) With the approval of the Council, the Executive Director may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for GS-18.

(d) Upon request of the Executive Director, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Council to assist it in carrying out its duties under this title.

(e) Section 5313 of title 5, United States Code (relating to positions at level II of the Executive Schedule), is amended by adding at the end thereof the following:

- (22) Executive Director, Council on International Economic Policy.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 209. For the purpose of carrying out the provisions of this title, there are authorized to be appropriated not to exceed \$1,400,000 for fiscal year 1973, and not to exceed \$1,600,000 for fiscal year 1974.

#### REFERRAL OF BILL

Senator SPARKMAN. The bill was referred to the Committee on Banking, Housing and Urban Affairs. Hearings were held there and it was reported favorably on June 19. On June 23 the bill was referred by unanimous consent, on my request, to the Committee on Foreign Relations for its consideration for a period not to exceed 30 days. That was because of the overlapping jurisdiction contained in the bill, in the two titles.

The chairman of this committee on June 28 wrote to the Director of the Office of Management and Budget recalling the fact that the original Administration request for establishing the Council on Interna-

tional Economic Policy had been referred to the Committee on Foreign Relations and requesting the Director to provide an Administration witness to testify on the bill today.

In his letter, Senator Fulbright made the point that the interest of the Committee on Foreign Relations relates primarily, although not exclusively, to Title II of S. 3726.

We are glad this morning to welcome as a witness for the Administration Mr. Frank Carlucci. I believe you have a prepared statement and we will be very glad to have you proceed with that.

**STATEMENT OF FRANK C. CARLUCCI, DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET**

Mr. CARLUCCI. Thank you, Mr. Chairman.

I could either read my statement or submit it for the record and try to summarize it, as you wish.

Senator SPARKMAN. Either way you want. The full statement will be printed in the record and you can handle it as you see fit.

Mr. CARLUCCI. Let me just hit the highlights of it, since you have reviewed the history of the bill.

**COUNCIL ON INTERNATIONAL ECONOMIC POLICY**

The Council on International Economic Policy originated with the recommendation of the Ash Council which pointed out that the responsibilities for international economic affairs were dispersed among a number of departments, agencies and committees without consistent, structured means of providing advice to the President or assuring the development of a coherent policy considering all the relevant facets of the various issues.

The council first went into effect on January 19, 1971, with the appointment of Mr. Peter G. Peterson as the first executive director and as Assistant to the President for International Economic Affairs. He served in that capacity until February 29, this year, when he was replaced by Mr. Peter Flanigan.

The chairman's letter asked that we address ourselves to three particular questions which you mentioned, and let me just review our position on those briefly.

**PRESIDENT'S PURPOSE IN SETTING UP COUNCIL**

The President's purpose in setting up the Council on International Economic Policy was to structure the advice and support functions in the important area of international economic policy along the lines of the National Security Council and the Domestic Council which have proved so useful to him as Chief Executive.

Essentially, these units of his office are instruments for better organizing the staff work for the President and his principal policy officers, to provide for a systematic review of policy options and an orderly decision-making process.

The President is chairman of the council and the council members are the high level policy officers.

The council staff is necessary to pull together the strands of policy and to support the President's decisions. The executive director is head of the staff. It is his essential task to make this mechanism work for the President and thus it is the Administration's view that he must be a person serving in a close personal relationship with the President and that he should be obligated to no one else for the holding of his position.

#### REQUIRING SENATE CONFIRMATION

To require Senate confirmation could alter the functioning of this mechanism and reduce its usefulness to the President. Furthermore, it should be borne in mind that the executive director and the staff he directs are just that, staff officers. Although they analyze policy and present policy alternatives—for policy is the substance of their work—they are not policy-making nor policy-administering officers. The President and the heads of the departments and agencies, not the staff of the council, are accountable for policy. They are the ones to whom the Congress should address its appropriate concerns and apply the proper checks and balances.

#### QUESTION OF SUBMITTING INTERNATIONAL ECONOMIC REPORT

The second question that was posed by the chairman's letter was the question of submitting a report, an international economic report. The Administration's original position was that such a report was not necessary since the information was contained in the economic report of the President. However, various drafters of the legislation seem to regard it as necessary; so the Administration has altered its position and we will be glad to have a report submitted.

The question of to which committee it should be addressed is really a matter for the Congress to resolve. We would be glad to send it to any committee the Congress may decide, or just address it "to the Congress" in general.

#### KEEPING RELEVANT CONGRESSIONAL COMMITTEES FULLY AND CURRENTLY INFORMED

The third question which we were asked to address relates to requiring the executive director to keep the relevant congressional committees fully and currently informed about the council's activities. The Administration does not support such a subsection. We think that keeping the Congress and the public informed of the activities of the Council on International Economic Policy is the duty of the President and the members of the council, not the executive director. Moreover, we believe that they, the accountable policy officers on the council, are providing and will provide the necessary information; and if there are some specifics that the Congress would like to have, we would be glad to take them up.

#### FIGURES JUSTIFYING AUTHORIZING APPROPRIATION FOR COUNCIL'S EXPENSES

The chairman also asked for financial figures justifying the authorization of appropriation for the council's expenses. Section 209 of the

bill would authorize limiting it to \$1.4 million for fiscal 1973 and not to exceed \$1.6 million for fiscal year 1974. We think that this would be sufficient to cover the staff, consultants and travel activities of the council; and I might note that this two-year authorization would provide the committee with an opportunity to review the usefulness of the council after a two-year period.

FAVORABLY REPORTING TITLE II WITHOUT AMENDMENT RECOMMENDED

I conclude with a recommendation that this committee give a favorable report to Title II of S. 3726 without amendment. Its enactment would be a constructive step in assuring continuing staff machinery in support of the President's responsibilities in this important area of international economic policy; and, Mr. Chairman, that concludes the summary of my statement and I will submit the entire statement for the record.

(Mr. Carlucci's prepared statement follows:)

STATEMENT OF FRANK C. CARLUCCI, DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Mr. Chairman and Members of the Committee, I am happy to support, on behalf of the Administration, Title II of S. 3726, which would provide for statutory establishment of the Council on International Economic Policy.

On January 19, 1971, President Nixon established by memorandum the Council on International Economic Policy. The purposes of the Council are to:

"1. Achieve consistency between domestic and foreign policy.

"2. Provide a clear top level focus for the full range of international economic policies—including trade, investment, balance of payments, finance—as a coherent whole, and consider the international economic aspects of essentially foreign policy issues, such as foreign aid and defense, under the general policy guidance of the National Security Council.

"3. Maintain close coordination with basic foreign policy objectives."

The President serves as the Chairman of the Council. Other members include the Secretaries of State, the Treasury, Defense, Agriculture, Commerce, and Labor; the Director of the Office of Management and Budget; the Chairman of the Council of Economic Advisers; the Assistant to the President for National Security Affairs; the Executive Director of the Domestic Council; the Special Representative for Trade Negotiations; and Ambassador-at-large David Kennedy.

The establishment of the Council on International Economic Policy was recommended to the President by his Advisory Council on Executive Organization, chaired by Mr. Roy L. Ash, in late 1970.

The Ash Council analysis concluded that the then-existing structure and procedures in the Executive Branch for dealing with international economic policy were inadequate. For example, the Ash Council found that responsibilities for international economic affairs were dispersed among a number of departments, agencies, and committees without consistent, structured means of providing advice to the President or assuring the development of a coherent policy considering all the relevant facets of the various issues. Moreover, there was recognition of the growing interdependence of the world's economies and the particular necessity at this time for the United States to pursue well-thought out, logical and consistent foreign trade, investment, and monetary policies.

The Ash Council conceived that, in the overall structure of advice and support for the President in his Executive Office, the Council on International Economic Policy would be, alongside the National Security Council and the Domestic Council, the third such Presidentially chaired Cabinet-level body of advisers with its own small independent staff. Its establishment, in effect, rounded out and completed the overall structure.

On January 19, 1971, the President also appointed Mr. Peter G. Peterson as the first Executive Director of the Council and as Assistant to the President for International Economic Affairs. He served in that capacity until February 29, this year, when he was replaced by Mr. Peter M. Flanigan.

In view of the crucial decisions that the President has had to make during these past months affecting this nation's international economic policies and the continuing importance of future decisions, the establishment of the Council was a timely step.

As the Council began functioning and a nucleus of staff was assembled on detail from the several involved agencies, the Administration proposed legislation to authorize appropriations for the expense of the Council and the direct appointment of staff. Responding to OMB Director George Shultz's letter of July 19, 1971, to the President of the Senate, Chairman Fulbright and Senator Aiken introduced S.J. Res. 141 and 139 respectively.

Some members of the Congress, in both Houses, became interested in expanding the Administration's legislative proposal into measures that would provide for statutory establishment of the Council and set forth other details of the Council's operations. For example, in the House, Congressman Ashley introduced H.R. 8180 and H.R. 14412, and hearings were conducted late this May on the latter bill by a subcommittee of the House Banking and Currency Committee. A related measure in the Senate was S. 3351, introduced by Senator Brock. It, with minor changes, was incorporated into S. 3726 as Title II and was favorably reported by the Senate Committee on Banking and Urban Affairs, June 19. This is the bill now being considered by your Committee.

While the essential legislative needs, as seen by the Administration, would be met by the enactment of S.J. Res. 141 or 139, the Administration would not oppose a well-constructed expanded measure giving fuller statutory prescription to the establishment of the Council on International Economic Policy. We view Title II of S. 3726 to be such a measure and would recommend its enactment.

Mr. Chairman, in your letter of June 28, setting up this hearing, you proposed that we discuss three particular questions. I shall turn to them now.

The first question is whether Senate confirmation of the Executive Director of the Council should be required. The Administration believes that it should not be so required.

As I have already mentioned, the President's purpose in setting up the Council on International Economic Policy was to structure the advice and support functions in the important area of international economic policy along the lines of the NSC and the Domestic Council, which have proved so useful to him as Chief Executive. Essentially, these units of his Office are instruments for better organizing the staffwork for the President and his principal policy officers to provide for a systematic review of policy options and an orderly decision-making process. The President is the Chairman; the Council members are the high-level policy officers. The Council staff is necessary to pull together the strands of policy and to support the President's decisions. The Executive Director is head of the staff. It is his essential task to make this mechanism work for the President. Thus, it is the Administration's view that he must be a person serving in a close personal relationship with the President and that he should be obligated to no one else for the holding of his position. To require Senate confirmation could alter the functioning of this mechanism and reduce its usefulness to the President.

Further, it should be borne in mind that the Executive Director and the staff he directs are just that—staff officers. Although they analyze policy and present policy alternatives—for policy is the substance of their work—they are not policy-making or policy-administering officers. The President and the heads of departments and agencies, not the staff of the Council, are accountable for policy. They are the ones to whom the Congress should address its appropriate concerns and apply the proper checks and balances. They—not the Executive Director of the Council, whose function is simply to serve the President and the Council.

The second question regards the necessity for including the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs among the recipients of the proposed annual "International Economic Report" under section 207 (a). I should explain the Administration's position on this question in two parts. *First*, the international aspects of the U.S. economy are regularly covered in the Economic Report sent to the Congress under the Employment Act. I refer you, for example, to Chapter 5—"The United States and the World Economy"—in the Annual Report of the Council to Economic Advisers transmitted in January of this year. There is, therefore, no Executive Branch need to prepare a separate International Economic Report. However, the members of the Congress who have drawn up bills to establish the Council on International Economic Policy on a statutory basis believe in the need for such a report. In view of this Congressional interest, the Administration no longer opposes the

provision requiring the separate report. *Second*, in view of the fact that the report requirement would be legislated primarily to meet Congressionally-felt needs, the Administration would be quite agreeable to sending it to any committees of the Congress you decide upon. One suggestion you may wish to consider is the appropriateness of having the President send the report "to the Congress" rather than several specified committees, and then the Congress can work out, as a matter internal to the two Houses, the committees to which it would be referred.

The third question, which we were asked to address, relates to the desirability of adding a new subsection (4) to section 208(a) requiring the Executive Director to keep the relevant Congressional committees fully and currently informed about the Council's activities. The Administration does not support such a subsection.

Keeping the Congress and the public informed of the activities of the Council on International Economic Policy, is, in our view, the duty of the President and the members of the Council—not the Executive Director. Moreover, we believe that they, the accountable policy officers on the Council, are providing and will provide the necessary information. If there is some specific element of information any committee needs in the performance of its legislative or oversight functions, we believe that it is appropriate for the committee to obtain it through ordinary means—oral inquiry, written letter, public or closed testimony, etc.

Mr. Chairman, you also asked for financial figures justifying the authorization of appropriation for the Council's expenses. Section 209 of S. 3726 would authorize not to exceed \$1,400,000 for fiscal year 1973, and not to exceed \$1,600,000 for fiscal year 1974. In the 1973 budget sent to the Congress this past January, the President included an estimate of \$1,341,000 for the 1973 expenses of the Council based on the assumption that authorizing legislation would be enacted. This amount includes the various costs of a permanent staff of 29, consultants, and others detailed on a reimbursable basis to the Council. The 1974 estimates of the Council's expenses have not been prepared, but the amount of \$1,600,000 should be sufficient for some modest growth of salaries and expenses in view of the likely increased needs of trade negotiations and other pressing international policy problems in that year.

While discussing section 209, I might add that one of its effects is to require congressional reconsideration of the progress of the Council prior to authorizing further appropriations for fiscal year 1975 and beyond. Thus, you will, within two-years time, have the opportunity to review whether the Council is a satisfactory and workable mechanism.

I conclude with the recommendation that this Committee—like the Committee on Banking and Urban Affairs—give a favorable report to Title II of S. 3726 without amendment. Its enactment would be a constructive step in assuring continuing staff machinery in support of the President's responsibilities in this important area of international economic policy.

Senator SPARKMAN. The entire statement will be printed in the record.

#### LETTERS FOR THE RECORD

By the way, let me say without objection there will be printed in the record the letter written by Chairman Fulbright to Mr. Weinberger to which you referred. Also, we have had letters from Mr. David J. Muchow of a Washington law firm and one from Mr. N. R. Danielian, International Economic Policy Association.

Without objection, I will place in the record those letters and the statement that they enclosed.

(The information referred to follows:)

JUNE 28, 1972.

HON. CASPAR W. WEINBERGER,  
Director, Office of Management and Budget,  
Washington, D.C.

DEAR MR. DIRECTOR: On July 19, 1971, we received a letter—referred by the President of the Senate to the Committee on Foreign Relations—from the Director of the Office of Management and Budget submitting proposed legislation to

authorize appropriations for expenses of the Council on International Economic Policy, and for other purposes. Accordingly, on July 26 I introduced (by request) Senate Joint Resolution 141. An identical resolution, S.J. Res. 139, was introduced two days earlier at the request of the Administration by Senator Aiken, the ranking minority member of this Committee.

However, in the intervening period legislation covering the same subject matter has been considered by the Senate Committee on Banking, Housing and Urban Affairs and has been incorporated as Title II of S. 3726, a bill to extend and amend the Export Administration Act of 1969. On June 23, 1972, by unanimous consent agreement the Senate referred S. 3726 to the Committee on Foreign Relations with instructions to report back within 30 days.

This Committee plans to hold a hearing on the bill on the morning of July 19, that is, as soon as possible after the Senate reconvenes following the Democratic Party Convention. Since your Office submitted the original request for this legislation we are asking you to provide an Administration witness to testify on that date. The concern of this Committee obviously relates primarily, although not exclusively, to Title II of S. 3726.

Among the questions on which the witness might be prepared to testify are the following: the issue of whether Senate confirmation of the Executive Director of the Council on International Economic Policy should be required, as argued by the chief sponsor of S. 3726, Senator Mondale; the necessity for including the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs among the recipients of the proposed annual "International Economic Report" under section 207(a); the desirability of adding a new subsection (4) to section 208(a) requiring the Executive Director to keep the relevant Congressional committees fully and currently informed about the Council's activities. We would also expect to receive the financial figures justifying the authorization of appropriations for the Council's expenses.

The exact time and location of the hearing will be made known to your office as soon as they are determined. If you have any questions about this matter, please contact Mr. Donald Henderson of the Committee staff; his telephone number is 225-5481.

Sincerely yours,

J. W. FULBRIGHT,  
*Chairman.*

SMATHERS AND MERRIGAN,  
*Washington D.C., July 14, 1972.*

Hon. J. WILLIAM FULBRIGHT,  
*Chairman, Senate Foreign Relations Committee, New Senate Office Building,  
Washington, D.C.*

DEAR CHAIRMAN FULBRIGHT: Enclosed please find a statement by the National Association of Secondary Material Industries, Inc. (NASMI) on S. 3726 which would continue the authority conferred by the Export Administration Act and establish a Council on International Economic Policy.

We strongly support the adoption of this legislation and urge your Committee to take no steps which would restrict the export of recycled solid waste materials from this country.

Sincerely,

DAVID J. MUCHOW.

Enclosure.

STATEMENT OF M. J. MIGHDOLL, EXECUTIVE VICE PRESIDENT OF THE NATIONAL ASSOCIATION OF SECONDARY MATERIAL INDUSTRIES, INC.

My name is M. J. Mighdoll, and I am the Executive Vice President of the National Association of Secondary Material Industries, Inc. (NASMI), and I am pleased to have the opportunity to submit this brief statement to the Senate Foreign Relations Committee with reference to S. 3726 which would extend the authority conferred by the Export Administration Act of 1969 and establish a Council on International Economic Policy.

NASMI, of course, is the trade association which represents America's metal, paper, rubber and plastics recycling industries. Its 700 member firms are located throughout the United States and they include collectors, processors, consumers and exporters of recycled solid waste commodities, principally ferrous and non-ferrous metal scrap, waste paper and textiles.

Today, the Federal Government is vitally concerned about our Nation's growing mountains of solid waste materials which defy effective economic disposal and both Congress and the President have decreed that all impediments and disincentives to the recycling of these solid waste materials must be removed. Indeed, Congress passed the Resource Recovery Act of 1970 and expressly directed that all federally-sponsored disincentives to recycling should be eliminated at the earliest possible date. Recently, therefore, a subcommittee of the Joint Economic Committee of the Congress held detailed hearings on the economic disincentives to recycling and as a result several agencies of the Executive Branch are presently studying ways and means to remove existing Federal tax disincentives to the use of recycled materials and how discriminatory rail and ocean freight rates which decrease or actually proscribe the utilization and exportation of recycled solid waste materials can be eliminated. The last mentioned problem is also under active consideration with the Export Expansion Act of 1971 currently before the Congress.

Clearly, therefore, we believe that both the Congress and our industry must be certain that legislation such as the Export Administration Act now before your Committee is continued in such form and administered in such manner that it will not improperly, unfairly and baselessly prohibit the exportation of recycled solid waste materials from the United States to foreign markets where they are sorely needed and where they can be advantageously sold by U.S. exporters. In this connection, NASMI is deeply concerned, for example, by a proposal made by the American Iron and Steel Institute in testimony before the Senate Committee on Banking, Housing and Urban Affairs on March 14, 1972, whereby Section 4(1)(a) of the Export Administration Act would be amended in such manner as to enable or require the Secretary of Commerce to impose export controls on recycled scrap metals from the United States simply because there *might* be some increased foreign demand, or *even the mere possibility of future increased foreign demand*, for U.S. scrap metals. This proposal was flatly rejected by the Senate Banking Committee and we urge your Committee, to the extent you examine Title I of S. 3726, to similarly reject any such proposal. Patently, the adoption by your Committee of such an amendment would furnish a drastic, new, and totally unnecessary criterion for the triggering of export controls when such controls should be imposed only when they are absolutely necessary because of a clear-cut, present, existing need to limit "the excessive drain of scarce materials" as the Export Administration Act presently provides.

The Iron and Steel Institute stated in its testimony before the Senate Banking Committee that the Department of Commerce "can take no action until after abnormally high exports have occurred over a substantial period of time, and it has the full measure of statistical evidence that the exports in question are causing short supply and inflationary conditions in the domestic economy." Obviously, because the Congress specifically provided in the Export Administration Act of 1969 that the "unwarranted restriction of exports from the United States has a serious, adverse effect on our balance of payments" and that uneven administration of export controls unnecessarily curtails U.S. exports, the Secretary of Commerce has clearly proceeded correctly and properly in his refusal to impose controls simply because some U.S. company or some U.S. industry envisions the future possibility of increased foreign demand for our recycled scrap materials.

Indeed, if any changes are to be wrought by Congress in Title I of S. 3726 at this time, then NASMI and the recycling industries it represents urge that proposals such as the one made by the Iron and Steel Institute be flatly rejected in favor of amendments which would make it abundantly clear—

(i) that export controls on recycled materials should be imposed only when it is absolutely necessary and unavoidable to prevent the excessive drain of scarce materials which are vital to our national security or our national economy; and

(ii) that once imposed, export controls on recycled materials should be removed immediately and without unnecessary delay when they are no longer required to prevent excessive drains of scarce materials, vital to our national security or our national economy.

Recently, for example, export controls on copper scrap were maintained in one form or another during lengthy periods when they were clearly unnecessary. And, regarding one of the examples referred to by the Iron and Steel Institute, the Commerce Department patently erred when it imposed tight export controls on nickel bearing stainless steel scrap during periods in 1969 and early 1970

when there was no supportable reason for the continuation of such controls. The law should be made clear: export controls on recycled materials should be put into effect and continued in effect only when they are plainly needed for the reasons mentioned above and they must be removed as soon as those reasons cease to exist.

Finally, regarding the specific provisions of S. 3726, we strongly support Title I of this legislation which would direct the Secretary of Commerce to remove export controls from any items now controlled unilaterally by the United States which are freely available from foreign sources, consistent with our national security.

We further believe that the establishment of industry-government technical advisory committees provided by Section 105 of this title will provide a much-needed mechanism not only to insure a balanced review of existing controls but also to foster and encourage vital cooperation between the private and public sectors in future export control matters.

If the Committee requires further information regarding any of the matters discussed above, we will be pleased to endeavor to supply it. In the meantime, we sincerely hope that the Committee will give full, favorable consideration to the suggestions we have submitted in this statement and that nothing will be done here which will frustrate or defeat the National recycling goals set by Congress in the Resource Recovery Act of 1970.

INTERNATIONAL ECONOMIC POLICY ASSOCIATION,  
Washington, D.C., July 17, 1972.

Hon. J. W. FULBRIGHT,  
Chairman, Committee on Foreign Relations,  
U.S. Senate,  
Washington, D.C.

DEAR MR. CHAIRMAN: I am sending my views on S. 3726 in written form, as you requested in your letter of July 6, 1972. Passage of that bill seems all the more necessary to me as foreign economic entanglements grow and as their import on the domestic front becomes more obvious and more controversial.

The enclosed statement recommends S. 3726, and in particular Title II, which establishes the Council on International Economic Policy with the stature and resources to do its job.

In addition, my statement recommends adding a long-range, bipartisan, and long-tenured policy planning capability to the Council by creating a Foreign Economic Policy Board. Its members would be appointed subject to Senate confirmation, and the President would pick the Chairman from among the members, who would also sit on the Council. This Board could also prepare for the President the annual report to Congress on the international economic position of the United States, called for by S. 3726. We suggest that the report should include an analysis and forecast of resources entering the balance of payments. Use of budgetary format would facilitate development of national priorities in our foreign operations.

The time has come to put our international economic house in order. In my judgment, S. 3726, amended as suggested, could contribute greatly to this goal.

Sincerely yours,

N. R. DANIELIAN:

Enclosure.

STATEMENT OF N. R. DANIELIAN, PRESIDENT, INTERNATIONAL ECONOMIC POLICY ASSOCIATION

Mr. Chairman, IEPA is a nonprofit research group which has studied the public policy issues of U.S. international economic affairs for many years. Our exposure to the results of badly fragmented and internally inconsistent policy has led us to conclude that the time has come—and indeed is long past—for structural reform of the U.S. Government in the international economic field.

My statement will, therefore, deal primarily with Title II of S. 3726, which is now before your Committee and which establishes the Council on International Economic Policy. In my view, getting our house in order for the development and execution of integrated overall international economic policies is of primary importance.

Nevertheless, I can give a general endorsement, at least to the objectives of Title I of S. 3726, because increasing U.S. exports is vital to correcting our trade

and payments imbalances. Thus, we should minimize the self-imposed restraints, consistent of course with any vital and continuing security needs, by carefully reviewing the existing restrictions which have developed over the years on security grounds.

With regard to Title II, one can only applaud the purpose, which is stated as providing "closer Federal interagency coordination in the development of a more rational and orderly international economic policy for the United States." In effect, Title II gives a statutory basis to the Council already established by Presidential action on January 19, 1971. This bill would give the Council added stature, permanence, and authorize the resources necessary to make this body effective. I believe this action is the absolute minimum required and strongly support enactment of Title II.

Let me briefly outline the reasons why we feel that the establishment of a strengthened Council and related machinery is essential. Each of the many government departments concerned with one aspect of foreign economic activities has tended to have its own policies, and often its own constituency. Each tends to look at the problem through the prism of its own parochial interests and responsibilities: the State Department necessarily treats international economic issues as part of foreign policy; the Treasury Department views them as a segment of monetary affairs; while the Defense Department sees them in military or national security terms. There is confusion about both goals and methods within the U.S. Government, among Americans generally, and among our foreign friends and trading partners.

The consequences of the neglect of American foreign economic interests in the two decades since World War II are readily apparent. The 1971 international monetary crisis is a direct result of mounting American balance of payments deficits. These deficits have caused erosion in the value of the dollar, disorder in the international financial community, and major economic problems with other countries. Many of these problems might have been avoided had we recognized sooner the need to pull together the governmental agencies concerned and to provide the President with a central focus on the totality of our international economic relations. It is hard to believe, but for decades we have failed to ask ourselves the single question: How do we pay for all the things we want to do and buy abroad? It is to be hoped that the Council will ask this hard-nosed question.

It is, I believe, to the President's credit that he recognized this need and created by executive action the Council on International Economic Policy, which has achieved an excellent record during its relatively short life. It is both appropriate and necessary to give the Council a statutory basis.

But it is important to recognize that there are two separate functions involved. One is to give the President an interdepartmental coordinating mechanism analogous in purpose, if not in subject matter, to the National Security Council. The latter body, it should be noted, was set up after World War II by Congressional action in recognition of the fact that in the modern world the United States could no longer afford to have separate foreign, political, military and naval policies, but ought to establish "a national security" policy at the Presidential level.

National policy is inherently the responsibility of the Chief Executive, it can only be done by him or under his direction, and the Council seems an excellent mechanism for achieving it in the international economic field. The second function, however, is of a broader and longer range policy-planning nature. And, I am not at all sure that the two missions can be satisfactorily combined in one body.

I therefore propose the creation of a separate organization, which might be called a Foreign Economic Policy Board, to be located in the Executive Office of the President to perform functions in the international field analogous to those performed by the Council of Economic Advisers in the domestic field. Obviously, this Board would have to have the closest relations with both the Council of Economic Advisers and the Council on International Economic Policy; indeed, its Chairman should probably be a member of the latter.

The analogy to the Council of Economic Advisers calls to mind that this body was created by Congress in the Employment Act of 1946 to provide the machinery to implement a national policy of seeking full employment.

It is self evident, I think, that the time has come for the United States to adopt the policy of getting its international accounts and its balance of payments deficit under control. This would be the precise purpose of the Board. It could

be structured so as to complement and assist the President and his key advisers, rather than conflict with them; but it should also have a bipartisan and long-tenured character, with a responsibility to make a major annual report to Congress and to the public.

Title III of S. 2394, introduced by Senator Brock about one year ago, would, in my view, meet these specifications very well. For example, the Board provided in his bill would be composed of five members appointed by the President, and with the consent of the Senate. Each of the Board members should be specially qualified to analyze and interpret international economic trends and to appraise both governmental and private sector activities relating to foreign economic policy. The President would have the power to designate one of the members as Chairman, but no more than three of the five would be from the same political party. Their terms would be staggered, but would last for seven years after the initial appointments. This pattern would assure both parties, and the Congress as whole, of a proper role in the planning of long-range international economic objectives, yet would not place undue restriction on the President, who would have the right to select the Chairman from among the members. That is necessary because the Chairman would be a key link between the Board's *planning* function and the *action-coordination* function of the Council on International Economic Policy and its Executive Director.

If such a body were established, it would be the logical one to submit to the President for transmission to the Congress the annual report on the international economic position of the United States, now called for by section 207 of S. 3726.

Finally, Mr. Chairman, I would like to see this report include a special analysis of the financial resources affecting the U.S. balance of payments for the preceding year and a forecast for the year ahead. The budgetary format of this analysis, that is, income and outflows on a sector by sector basis, would provide the President and his Council, on the one hand, and the Congress on the other, with an invaluable tool in assessing priorities and drawing up the necessary policies.

This last point underscores the root of our problem. In 1971, the United States spent abroad approximately \$80 billion for imports, foreign travel, military expenditures, foreign aid and investments abroad, while we earned from all sources only about \$70 billion. The difference, of course, was our deficit on the basic balance of payments of over \$9.3 billion. Although the devaluation of the dollar will help, it will not, by itself, solve our problems. Devaluation is limited in its effectiveness and its feasibility, among other reasons, because of the resistance of foreign governments. There are already some \$65 billion in cumulative U.S. liabilities held abroad arising from these deficits. If we continue to add to this mountain of unwanted dollars abroad, at the present rates, it is possible that by 1980, foreigners would own enough dollars to surpass the value of our investments abroad. We are, in fact, putting our capital in hock to pay current bills. How long can we continue to do this? What will be the consequences to our national welfare, in a real sense, to our national security?

The problems will multiply several fold when we start to give massive amounts of aid to South East Asia, long-term credits to Eastern Europe, and have to import huge amounts of oil and other raw materials. This underscores the need to give our international economic relationships the priority they deserve and to get a grip on our financial future. I believe that S. 3726, modified as I have suggested, could be of enormous value in doing so.

#### WITNESS'S RECOMMENDATION

Senator SPARKMAN. I believe the summation of your statement, your recommendation, is that the bill should be enacted as it was reported by the Banking Committee?

Mr. CARLUCCI. That is correct, Mr. Chairman.

Senator SPARKMAN. You said without amendment?

Mr. CARLUCCI. Without amendment; yes, sir.

## DURATION OF COUNCIL

Senator SPARKMAN. What is the duration of the council?

Mr. CARLUCCI. Well, the bill, S. 3726, would give it a two-year authorization period.

Senator SPARKMAN. That is what I meant. It is for two years according to that bill?

Mr. CARLUCCI. That is correct, sir. At the end of that period the committee would, of course, review it and decide whether there should be additional authorization.

Senator SPARKMAN. Senator Aiken?

## GAO ACCESS TO OPERATIONS OF COUNCIL

Senator AIKEN. As I understand it, the General Accounting Office would have no access whatsoever to the operations of this council?

Mr. CARLUCCI. Senator, the General Accounting Office would have the same access to the Council and the Council's records that it presently has to other offices of the executive office of the President.

Senator AIKEN. As it has to Mr. Kissinger's office, for instance?

Mr. CARLUCCI. I don't know whether there has been any precedent. I am not aware of any General Accounting Office inquiry into the National Security Council's functioning.

Senator SPARKMAN. May I say in that connection we have recently had a similar matter before the Banking Committee, relating to the access of the General Accounting Office to certain activities. This involved the Board of Control or Board of Trustees with reference to this guaranteed loan to Lockheed. I think I can say we have worked that out quite satisfactorily. You may recall that in connection with one bill that we passed through the Senate, we state in the report that the General Accounting Office ought to have the same degree of access as it has with regularly established departments like the Department of Defense and not beyond that, neither more nor less. I think it was satisfactory to the Treasury Department and to the General Accounting Office, and I was well pleased with the settling of it.

Senator AIKEN. Didn't the press report they gave Lockheed another \$100 million? The deficit was increased \$100 million. It was supposed to reduce it.

Senator SPARKMAN. No. I don't think we have released that much. I am not sure.

Senator AIKEN. It is beyond my understanding anyway.

Senator SPARKMAN. No, the most recent report has shown them picking up.

Senator AIKEN. Have they started selling to China?

Senator SPARKMAN. They are picking up.

Senator AIKEN. I hope.

## QUESTION OF CONFIRMING EXECUTIVE DIRECTOR

I haven't any more questions. Apparently the immediate question for us to decide is whether we should recommend having the executive director come before the Senate for confirmation and that is something that will come up in executive session. I don't see how it can be settled here this morning, with four of us present, anyway.

Senator SPARKMAN. Yes, it will. We considered that in the Banking Committee and decided against it and I will be very glad when we get to executive session to state the reasons. I don't suppose there is any need of discussing here, why we decided it that way. It is a purely voluntary job. There is no salary. It is purely advisory and, after all, it is only for 2 years. That is correct, isn't it—those things that I said?

Mr. CARLUCCI. That is correct. It will be for no longer than the authorizing legislation.

#### PRIORITY OF PROPOSED COUNCIL

Senator AIKEN. This proposed council would have priority over the Department of Commerce?

Mr. CARLUCCI. Well, Title II—

Senator AIKEN. The Department of Agriculture, and other departments?

Mr. CARLUCCI. Well, Title II of the bill really sets up a council on which the Secretary of Agriculture, the Secretary of Commerce and others would sit; the council is chaired by the President. There is a staff which functions, I would presume, much as the staff to this committee functions, supplying staffing papers out, getting agendas ready for meetings of the council; so the Department of Commerce and the Department of Agriculture activities would essentially be coordinated through the council mechanism.

Senator AIKEN. In a sense, though, this Council on International Economic Policy, would have the priority over other departments of government?

Mr. CARLUCCI. Well, in that the council would be a forum for reflecting presidential decisions, which decisions would be implemented by the various departments, I think what you state is generally accurate. The council, as a body, consists of a number of heads of departments and agencies.

#### QUESTIONING SECRETARY OF COMMERCE CONCERNING EXPORT BUSINESS

Senator AIKEN. Suppose we call the Secretary of Commerce before the committee, which I assume we could do, and ask him questions. Could he refuse to answer the questions on the ground that he didn't have the authority from the Council on International Economic Policy, providing the questions related to export business?

Mr. CARLUCCI. No, sir; he could not.

Senator AIKEN. He could not?

Mr. CARLUCCI. In fact, we are arguing that the members of the council, the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of Labor, Director of OMB, Chairman of CEA (Council of Economic Advisers) and Special Representatives for Trade Negotiations should be the ones to whom the committee would look for appropriate information on the council's activities, not the council's executive director who is essentially a staff man for the council and for the President.

Senator AIKEN. I see. Just like we look to the State Department now to find out what Mr. Kissinger is doing; is that correct?

Mr. CARLUCCI. We draw a parallel there, too, yes, sir.  
(Laughter.)

Senator AIKEN. We had a bill before us two weeks ago which, in effect, gave the OEO (Office of Economic Opportunity) priority over a good share of the agencies and departments of government. We did get that changed a bit so that the OEO will now supplement them instead of having priority over the other departments, but I guess I have said enough.

Senator SPARKMAN. Senator Scott?

#### ANALOGY TO BEST EVIDENCE

Senator SCOTT. Mr. Carlucci, it seems to me this is somewhat analogous to the best evidence rule, namely, that if congressional committees want to know what the council is doing, the best evidence for that is either a report from the President or testimony from members of the council, as you pointed out, the Secretaries of State, Treasury, Defense, Agriculture, Commerce, Labor, OMB or the other agencies which make up the council, all of whom could be expected to testify, if invited?

Mr. CARLUCCI. That is correct, Senator Scott.

Senator SCOTT. That is the best evidence other than to call the executive director up here?

Mr. CARLUCCI. That is our position, yes, sir.

Senator SCOTT. Those are the only questions I have, Mr. Chairman.

Senator SPARKMAN. Senator Percy?

Senator PERCY. Mr. Carlucci, I have not made a decision yet. I think I really am in the same position as Senator Case and Senator Javits. In their absence this morning, I will want to get your thinking to transmit to them. We didn't want to reach a conclusion until we heard your views.

#### NUMBER OF POSITIONS CONFIRMED BY SENATE

Can you give me a rough idea in your capacity in the Office of Management and Budget how many positions are confirmed by the United States Senate in a year or in the term of a new Administration?

Mr. CARLUCCI. It would probably average out to somewhere in the neighborhood of eight to ten people in each agency, and we have some 40 or 50 agencies of government, so I expect the number would be quite considerable, quite large.

Senator PERCY. I have the impression it runs into the thousands when I see the lists come over from the Department of Defense alone for their promotion. We confirm promotions within the military services and they are put through generally by voice vote without much discussion or dispute.

#### INTENT AND PURPOSE OF CONFIRMATION

As Deputy Director of Management and Budget, how do you conceive the purpose of confirmation? What is the intention and purpose of this process? In many cases it is simply pro forma.

Mr. CARLUCCI. Well, you are quite right; in many cases it is pro forma. If we add to the executive level positions of the federal gov-

ernment, which probably number somewhere around 1,000, I would have to make a guess, but I would like to correct that figure for the record. If we add to that the military and Foreign Service Officer promotions, which are really fairly perfunctory, you would have a substantial number; that is clear.

I look upon the process strictly as it pertains to the people appointed to executive level positions—the 1 to 5 categories, executive level positions, as one which implements the checks and balances process established by our Constitution one which insures that the people who will be developing and implementing policy are people who have the confidence of the Senate of the United States as well as the President of the United States.

Senator PERCY. Do you feel that it is a useful process?

Mr. CARLUCCI. I certainly feel it is a useful process; yes, sir.

Senator PERCY. Does it tend to remind a man, in exercising his responsibility, that there are two branches of government that must be served: one, the executive and, the second, the legislative, and that this process—although painful sometimes—is a worthy institution that has survived the test of time?

Mr. CARLUCCI. Well, as one who went through a rather painful confirmation process as Director of OEO, I can verify that it is nice to have Senate confirmation, and it does give you a certain degree of confidence in carrying out operating responsibilities; and I would stress operating responsibilities. I think it is very important when someone has a responsibility for implementing legislation which has been passed by the Congress, and operating programs pursuant thereto, that he know that he enjoys a certain confidence in the Congress of the United States.

But I would make the distinction between someone who is implementing a specific piece of programmatic policy and someone who is serving in a staff capacity to the President.

Senator PERCY. When we are considering those in staff capacity, doesn't it also involve an element of power, and the whole implication of the confirmation process that they should also be responsive to the legislative branch of government?

Mr. CARLUCCI. I am not sure, Senator, how I would define power in the federal government. After a number of years in the federal service, I am convinced that power sometimes ebbs and flows and it is a very illusive matter.

Essentially all power stems from the President in the executive branch and he is accountable to the people once every four years. He, it seems to me, is entitled to have the best advice he can get from his personal staff. Some of these staff advisers may exercise power in the sense that they influence the President, but they do not have an independent base of power, such as a cabinet member or an agency has. That is the distinction we would draw in this case.

#### PROBLEM OF MAN WHO HAS DUAL RESPONSIBILITY

Senator PERCY. I would concur with that when it comes to a position of, say, assistant or counselor to the President. What I have a problem with is when you have a man who has a dual responsibility, assistant to the President—that should be totally and completely privileged—

but when he acts in another capacity, has another hat on, shouldn't he then present himself to Congress and say, "While one aspect of my relationship is totally and completely privileged, this other aspect is a role which does involve power, influence, policy and decisions which are vital to the governing of the republic and I will subject myself to inquiry and questioning in that role. Whenever it gets into the area of my relationship, which is privileged, I will understandably abstain."

And I can't imagine any member of the Senate of the United States pushing any inquiry into that area which is clearly privileged.

Mr. CARLUCCI. Well, you have described a division of responsibility that I am not sure exists in this case, Senator. The executive director of the Council on International Economic Policy is both advising the President and acting as a staff to a forum that serves to advise the President. So the two are essentially inseparable, particularly since the forum consists generally of cabinet officers who are dealing on a day-to-day basis with the problems that involve the implementation of legislation passed by the Congress, and the cabinet officers themselves can testify before the Congress.

The executive director of this forum does not have an independent power base in itself. His function is confined to serving as a staff to the council and advising the President, both in the President's capacity as chairman of the council and in his other hat as assistant to the President, in the President's capacity as President of the United States.

#### NECESSITY OF UNIQUE WORKING RELATIONSHIP WITH DR. KISSINGER

Senator PERCY. When you take into account real power, though—the ability to establish policy, the ability to take action and carry it out—would you say that Dr. Kissinger, for instance, is in a position of real power and influence and that it is understandable that the Senate would be somewhat uncomfortable having him totally and completely removed from their jurisdiction? It seems that some accommodation, some unique working relationship, should be worked out if we are to really fulfill our responsibilities.

Mr. CARLUCCI. I don't question the fact that Dr. Kissinger has considerable power and influence, but that power and influence stem from his role as an adviser to the President and the decisions themselves are being made by the President. And as long as that is the case, he is serving in a staff function. It is my understanding that he has consulted informally with various members of the committee.

Senator PERCY. I would like to be the first to say that I think he has been ingenious in finding a way to walk in the shoes of a Senator. I can't imagine that Dr. Kissinger, if elected Senator from the State of Massachusetts, would not have taken the initiative to find a way to have a direct contact with the Dr. Kissinger in the White House whom he knows has made policy, even though the President is ultimately responsible. Dr. Kissinger actually has been very helpful in giving us his thoughts and his feelings about the course of foreign policy.

#### POSSIBILITY OF WORKING RELATIONSHIP WITH MR. FLANIGAN

Senator SCOTT. If the senator will yield, I wonder if that isn't the same sort of thing that would be possible with Mr. Flanigan?

Senator PERCY. That is what I am leading up to.

Mr. CARLUCCI. I have discussed this with Mr. Flanigan and he has indicated he would operate in very much the same way.

Senator PERCY. That is a very important point. I would feel very remiss in not insisting upon confirmation if I had the feeling that Mr. Flanigan, whose position of influence and power I would be the last to underestimate, would be immune from us and if he would follow at least the same course that Dr. Kissinger has followed with the appropriate members of the Senate who have responsibility. It is a shared responsibility we have in the field. It cuts across a number of committees; certainly Banking and Currency, and I served on that distinguished and powerful committee under our fine chairman, and I wouldn't feel we could carry out our responsibility if we only had access to, say, the Secretary of Commerce, and not to the man who really had the responsibility of pulling Commerce and State and everyone else together. So I think if that is a commitment from the Administration and supported by Mr. Flanigan, it would help a great deal.

#### MEANS OF CONTACT WITH MR. EHRLICHMAN

I would think the same thing might be true of Mr. Ehrlichman who, again, I feel, is one of the most powerful men in the United States. It is a terrible waste of time for us to go through confirmation hearings on assistant secretaries and so forth who really cut no ice whatsoever. We know it and yet we go through this routine and not question the man who actually has the power in domestic policy. There ought to be some responsible way, without embarrassment to him, without embarrassment to the administration, for us to get to know his thinking and his attitudes better and to have a chance to exchange views, because possibly we might be able to contribute something to his own thinking and thus have an input into the domestic council.

And yet I have the feeling that there has been no regularly established basis, shall we say, for having contact with him.

Mr. CARLUCCI. Well, I haven't discussed that subject specifically with Mr. Ehrlichman, as I have with Mr. Flanigan; but let me stress, in noting the power and influence of Mr. Ehrlichman, that in my experience Mr. Ehrlichman has always been very careful to act as a staff assistant to the President and present to the President staff options rather than personal positions. That is the way that the Domestic Council is set up to function, as the National Security Council.

Senator PERCY. Well, in presenting these options, is there no possibility, after five options have been recommended, that Mr. Ehrlichman doesn't add a p.s., "I think option No. 3 is probably the best," and does he stay totally immune from any recommendations to the President and does he not take all of this material and synthesize it and then come to a conclusion so that he saves the President the responsibility of—or the necessity of—making that same appraisal for himself? The President has the options and he can go through the options, but wouldn't he want to really know John Ehrlichman's thinking on the issue?

Mr. CARLUCCI. Certainly he seeks John Ehrlichman's thinking. He also seeks Casper Weinberger's thinking and the thinking of various

cabinet members. In fact, written papers I have seen contain the views of a rather large number of people whose views the President has sought, John Ehrlichman among them.

Senator PERCY. Well, I would like to say I have no problem in making request of John Ehrlichman; I have found him responsive and understanding. In fact, Senator Case invited him for a lunch which was interrupted by roll calls which was an exasperating experience for him.

Senator CASE. He got enough to eat, I think.

#### VALUES OF CONFIRMATION PROCESS

Senator PERCY. But I think it was a very good thing. I think it is necessary to have some basis for developing a relationship, not to embarrass but to seek information and get the benefit of their thinking and have a chance to make a regular input. I see that as one of the great values of the confirmation process. When scores of appointees from Illinois have gone through, I have introduced them to the Senators and they have learned the thinking of the Senators. I think it is a healthy and constructive process.

#### INSISTANCE ON CONFIRMATION CONCERNING PRICE AND WAGE CONTROL BOARDS

When we came to the Price and Wage Control Boards, at that time I took the position that if this were a Democratic Administration and a Democratic President had appointed a czar of prices and a counterpart possibly in wages, that the process of confirmation would be something I really would insist on. I wouldn't have given that kind of control over the whole economy of the United States to two men without confirmation while we confirm others who we know will never make any policy.

But here we had two jobs that were powerful and I really insisted we subject them to confirmation proceedings because if it would be right for us to do it in a Democratic Administration, it should be right to do it in a Republican Administration, and Republicans should be the first to say no one should be given that kind of power without confirmation. Would you concur that that was a wise decision for the Senate to make? Would you concur that it had been helpful?

Mr. CARLUCCI. I would concur it has been helpful in that case.

#### HOW PAY BOARD AND PRICE COMMISSION DIFFER FROM COUNCIL

Senator PERCY. I know there is a difference between these jobs.

Mr. CARLUCCI. I would draw a difference between the Pay Board and the Price Commission and the kinds of programs they are operating pursuant to statutory authority.

Senator PERCY. Could you expand on that a little bit for the record because I think it is important that we do understand the distinction and difference each of those boards has with the executive director of this council?

Mr. CARLUCCI. I would be glad to do that, Senator.

Under the Economic Stabilization Act, the specific responsibility for carrying out the policy of Congress have been given to the Chair-

man of the Price Commission and the Chairman of the Pay Board and they are in effect in day-to-day contact with the American public in making decisions that will impact immediately on the public and will be implemented by staffs under their direct control.

None of these considerations would apply in the case of the Executive Director of CIEP. His function would be a staff function, one of pulling together agency recommendations, looking at them logically, putting staff papers before the council and before the President as chairman of the council, and seeing that the decisions are implemented by the agencies. In other words, he would not be in direct contact with the American public or elements of the economy. The decisions made in the CIEP forum would be implemented through the respective agencies, so that the forum itself is essentially a coordinating mechanism and the executive director simply serves as the head of the staff to help pull that coordination together. This is very different from the responsibilities of Chairman Grayson and Judge Bolt.

WITNESS' VIEW OF EXECUTIVE DIRECTOR WITHOUT SENATE RELATIONSHIP

Senator PERCY. Would you feel—and I will preface this by saying that I will do everything I possibly can the next four months to see that he doesn't have that power—but would you feel comfortable with an executive director appointed by Mr. McGovern, if he is elected, unless the Senate of the United States has some means of questioning the man finding out what his points of view were, and to exercise some possibility of restraint on policies that he might attempt to implement that would vitally affect the international economic well-being of this country?

Mr. CARLUCCI. Assuming the job is as I have described it, I think that any President should be entitled to have a man in that job without Senate confirmation in view of the relationship that must exist between the incumbent and the President.

Senator PERCY. Would you feel more comfortable though, if it wasn't through confirmation if we did work out some relationship where we could directly have access to his thinking and have a chance to make some input?

Mr. CARLUCCI. I think it is desirable in the case of all staff members that informal consultation should go on and I know, as I said earlier, Mr. Flanigan is most anxious to have that kind of informal consultation. We in OMB seek it and I think it is a very constructive thing to have.

Our only point is that we do not want to change the nature of the organization by requiring Senate confirmation. We think that would change the nature of the organization. We think the same goal can be achieved through less formal means.

Senator PERCY. Thank you, Mr. Chairman. I find the witness this morning is an able and helpful a witness as he is an able and tough administrator.

Senator SCOTT. He should be; he comes from Pennsylvania. He knows his business.

Senator SPARKMAN. Senator Case?

INSTITUTIONALIZING CONDUCT OF POLICY WITHOUT CONGRESSIONAL  
CONTACT

Senator CASE. Mr. Chairman, sorry I was not here for the first part of the discussion. I am deeply interested in the subject. I am quite concerned about the whole concept of institutionalizing and centralizing the development of foreign policy—economic policy in this case—and its day-to-day surveillance. The bill provides for a system of selection and recommendations coming from the various government departments and the council then sifting out options and presenting them to the President without direct contact between the Council and the Congress and vice versa.

The whole bill describes how the Council "Shall prepare for the President," "Shall make recommendations for the President," "Shall do this for the President," but says nothing about doing anything for the Congress.

Now, you say this is an agency in the Office of the President. Well, the question is: should there be such an agency which further institutionalizes and concentrates the conduct of international economic policy and places it ultimately in the hands of a single man?

The question of confirmation of the occupant of the staff position, as you modestly call it, is only for purpose of discussion in the preliminary passage of the bill. After initial confirmation, there will be a very different aspect to this man's job. We are not trying to tell the President whom he may have in this position, but we are trying to establish that the Senate has a right to call this man to testify in the future about what goes on in his agency. And it will be an agency; he will not serve as just an adviser to the President; it will be an agency, an additional agency for the conduct of foreign economic policy?

You can talk about staff operations and advice and all the rest of it as much as you want, but foreign economic policy will be run through this agency in the future. And the Secretary of State will be less important in economic policy. The Treasury, Agriculture and Commerce Departments will all be subordinate to the determinations of the President based upon recommendations of this Council which in turn will be based on the views of the Council's staff.

Mr. CARLUCCI. Senator, I guess I would have to differ with your fundamental premise.

Senator CASE. What is that?

Mr. CARLUCCI. Your premise that this is an agency which will have independent power. There are a number of offices in the executive office of the President that are not agencies, that are strictly staff offices advising the President. They do not run any programs, so to speak; and this particular council does not run any program pursuant to any particular piece of legislation as one normally conceives of an agency.

What it does is to try to coordinate the various programs that are being run by the different agencies, and to present staff recommendations to the President and to the council, which recommendations will then be, if approved, implemented by the various agencies.

And in connection with your comment of where does the Congress fit in, the Congress has oversight responsibility for all of these

agencies; and the respective agency heads do and will testify both on their own activities and on the activities of the Council.

FURTHER REMOVAL OF CONGRESS FROM POLICYMAKING SUGGESTED

Senator CASE. I don't disagree with anything you have said, but it is what you have said that I am concerned about. The Congress should be involved in and informed of the determination of the policy that these Departments are directed to carry out. We want to know about the reasoning that goes into the fixing of these policies and the facts underlying the reasoning. That is where there is a gap. You have, obviously and properly, in representing the view of the White House and the executive branch said this is none of Congress business.

Now, I am not putting in a belligerent way but I am just trying to analyze and dissect what the Senator from Illinois has been saying on what this really means. And what this really means, I think, is a further removal of Congress from any effective participation in the making of policy. We must be concerned about the making of the policy, not just the carrying out of orders.

Mr. CARLUCCI. In the case of major policy, Senator, the decision is made usually by the President.

Senator CASE. Well, you say policy is made by the President—not by the President plus Congress. When we can't question, even in an appropriations request, the people who make policy and ask them about why the policy was made, then we are not in a position to do our job.

Mr. CARLUCCI. If I may, the President, having made the decision—

ANALOGY TO BUDGET PROCESS

Senator CASE. Made what decision, just for example, if you would be specific?

Mr. CARLUCCI. If I may draw an analogy—

Senator CASE. Yes, take an example.

Mr. CARLUCCI (continuing). Let me draw an analogy between this kind of process and the budget process in the Federal Government.

The President has to make a number of hard choices in the budget process, tradeoffs between programs within agencies, tradeoffs between agencies. He has to be concerned about problems of inflation and not everybody is going to be pleased by what comes out. But it is generally agreed that he can make these decisions with advice from his staff in confidence, up to the point when the budget is transmitted to the Congress. Then various Cabinet members and the Director of the Office of Management and Budget are available to discuss the rationale for these decisions with Congress and the Congress can take action as it pleases on the various programs.

Now, the same situation would apply here.

Senator CASE. May I comment on that analogy, which is an interesting one. Congress can ask various questions of the department heads. We can ask them what they asked the Bureau of the Budget for in the first place and whether they are happy with what they got. Can we ask them why they were turned down and how the process worked? Can we ask them why the Director of OMB and the President said they could not have something?

In practice, we cannot. You know that we cannot. Long before we get answers, it is suggested that we are overstepping the bounds. We never learn why one program has priority over another and what goes into the decision made by, as you say, the President.

Well, the decision should be made by Congress in the case of the budget; and how is Congress going to know what it ought to do about this if it doesn't know why the President made his choice. Whom are we going to ask why the President made his choice? You can't ask the President.

Mr. CARLUCCI. Surely the committee can ask the Director of the Office of Management and Budget and you can surely ask the cabinet head who is charged with implementing that policy. Moreover, if the Congress is not satisfied with that policy, it always has the prerogative of changing the authorizing legislation or changing the appropriations that the President has requested.

Senator CASE. We do have this power.

Mr. CARLUCCI. It is just a question of at what point in time does the Congress have access to this process and can make its decisions felt. We say the President should be entitled to make certain choices and then present these as a unified package to the Congress, have the Congress debate it, make its decisions, pass the necessary appropriations as they see fit, alter the legislation as they see fit, which is then sent back to the President; and we think that this is a proper process.

Senator CASE. This is the way things go, but there is an important gap. We almost always do not have sufficient information, as to what went into the establishment of the priorities in the budget case—for the upping of this and the lowering of that. And no, you can't ask the Office of Management and Budget why a certain priority was fixed. It just doesn't work that way. You know it doesn't.

#### CASE OF DR. KISSINGER

Take the case of Dr. Kissinger. He is a great fellow, one of the ablest men who ever held public office or taught in a college; but he is just a human being. We can ask him to our homes; we can talk with him informally in his office or even in some neutral ground like the Supreme Court Building or the Supreme Court Room. He will talk to us very frankly, and nobody even asks him what he told the President or what the President told him.

#### PROBLEM OF BEING SUBJECT TO PERSONALITIES

Senator PERCY. Would you yield at that point, Senator Case?

My problem with that very point is that we are subject to the good sense, the good judgment, the reasonableness of Dr. Kissinger in this case. He is an eminently reasonable man who is so objective that he can walk in our shoes and can appreciate our problems. But what if he were like a lot of other people I have known—some Republicans, some Democrats—who are very arbitrary and who don't even understand the Constitution.

We have to deal in universal principles down here, regardless of Administration. Our problem is we are too subject to personalities; in this case we have three eminently reasonable men; we have no prob-

lem in working out over a period of time some accommodation so that we can fulfill our responsibility, but what if you have three guys you can't get at all, who just sit there and say, "You can't get at us; we are immune"? Then what do you do?

#### RIGHT OF PRESIDENT TO RECEIVE CONFIDENTIAL ADVICE

Mr. CARLUCCI. Senator, I think the issue has to be looked at in terms of how our system functions and less in terms of personalities. I would argue that the President has a right to receive confidential advice and have that advice held confidential.

Senator PERCY. Absolutely.

Mr. CARLUCCI. The President, of course, is accountable every four years. The cabinet members must come up and explain the Presidential decisions and priorities that have been set as best they can and if their explanations fall short, Congress can then work its will. But I do not think that anybody should be required to testify, for example, on what specifically they told the President and what the President said.

Senator PERCY. No one is asking that.

#### SIZE OF ADVISORY OPERATION

Senator CASE. I think it depends on who they are; I wouldn't even say nobody. Believe me, I wouldn't say nobody. I certainly think the President is entitled to have a small group of advisors of great competence to whom he can go in complete confidence. But I am less sure when he builds his advisor corps up to an agency, as in the case of Dr. Kissinger's staff. How many people are working for him?

Mr. CARLUCCI. We have requested 79 positions for the Security Council in 1973.

Senator CASE. Well, there are fixed positions and then there are a lot of people assigned from other agencies. It is a great big operation. It isn't just a little group of people who go into the closet with the President and advise him in a very close way. This isn't, you know, ad hominem at all. It certainly isn't, so far as I am concerned. I know the Senator from Illinois feels the same way as does the Senator from Alabama. My remarks are not directed against individuals here or the present President.

George Washington started the whole mess when he refused to let the House have information about the Jay Treaty when Congress was asked to provide the funds for its implementation. He said, "You can't have that." Why, it was the most outrageous decision, it seems to me. And ever since then, Presidents have felt they had to do as well as George Washington in dealing with the Congress. Sometimes it wasn't so much the Presidents themselves as the people on the President's staff.

Imagine George Washington getting away with saying to the Congress, "You can't have this information on which we are." And he did it with a straight face on the suggestion, because he was dealing with a House committee, that he was helping preserve the Senate's prerogatives in the ratification of treaties. Even you have to smile a little bit about that one.

Mr. CARLUCCI. I hope I don't have to defend George Washington.  
(Laughter.)

AGENCY WITH DIRECTOR NOT SUBJECT TO CONFIRMATION ON QUESTIONING  
QUESTIONED

Senator CASE. But again you are quite right; these things must all be handled on the basis of accommodation and reciprocity. Yet that isn't good enough when you are establishing a structure by statute; and that is the reason that we have such trouble with the Foreign Economic Council. If the President wants to do this thing informally and have somebody on his staff coordinate information, let him do it. But to ask us to set up an agency with a director who is not subject to confirmation or to questioning because he is technically a member of the President's staff seems to be suggesting something that is an unwise further stratification and insulation of Congress from the decision-making process.

Mr. CARLUCCI. If I may just comment briefly on that, Senator—

Senator CASE. Sure.

Mr. CARLUCCI (continuing). We are not asking the Congress to set up an agency. We have been asked to testify on a bill that has been developed up here, which we favor. We initially—

Senator CASE. This was set up originally by executive order.

Mr. CARLUCCI. Well, it had been set up; it had been established by detailing various people from various agencies and it was set up by Presidential memorandum. We requested that the Congress vote a resolution authorizing appropriations for it, but a number of people on the Hill felt it would be better to have a statutory base for the entity. We, of course, would be satisfied with the resolution.

NEED FOR RESOLUTION

Senator CASE. Why do you need a resolution?

Mr. CARLUCCI. We think it would be good to give it the kind of recognition that the National Security Council and the Domestic Council have; and the Domestic Council, for example, was set up by reorganization plan and not by statute.

Senator CASE. Well, it has the effect of statute.

Mr. CARLUCCI. Yes, it has the effect of statute if not overturned.

Essentially, we have a problem of getting appropriations for expenses of the Council's staff, and hence we sought a resolution which would authorize the needed appropriations and otherwise recognize the establishment of the council. That is perhaps a fine distinction, but it is a distinction we are trying to make.

CONGRESSIONAL NEED FOR RAW MATERIAL TO MEET RESPONSIBILITIES

Senator CASE. I think that is perfectly reasonable. Yet our chairman and some of us on the committee are especially sensitive to this issue because of the many ways in which we have run into it. I think this is the place to stop and have a look.

Can you concede that the director or the head of the agency, or whatever you call him, can come up to testify and give us the raw

material that comes to him on what goes into the policy-making process, in the formation of the options presented to the President? This is what we want; this is what we need.

How can Congress ever meet its responsibilities in the joint formulating of policy without the same raw material that the President gets? And we have got to have that. That is the real objective.

Mr. CARLUCCI. With all respect, Senator, I think that is what we do give you.

Senator CASE. Why should there be anything available to the President that is not available to Congress?

Mr. CARLUCCI. We would argue that the President is entitled to get confidential advice and then present his—

Senator CASE. From a small group of people.

Mr. CARLUCCI (continuing). Then put out the position of the President.

Senator CASE. But not from the government of the United States and its far-flung operations all over the world. There is nothing secret about that, and shouldn't be. Perhaps you are going to have some kind of security question or some delicate nuance of relationship in a particular instance where confidentiality cannot be avoided, but on the broad sweep of policy Congress ought to have every bit of information the staff of this agency has.

Now, that is the position in which I believe. Thank you, Mr. Chairman, you have been most generous and I hope you got your homework done on other matters while we were dealing with these irrelevancies.

Mr. SPARKMAN. I have been reading the discussion in our committee on this very measure.

Senator CASE. I know.

Senator PERCY. I have further questions when you finish.

Senator SPARKMAN. You go ahead and then I will come in later.

#### COUNCIL MEETINGS AND WORKINGS

Senator PERCY. Following up what Senator Case asked, I wonder if you can supply to us either now or for the record how many meetings the council has held, how many the President has actually chaired, and what the attendance has been at the council meetings. In other words, has the Secretary of the Treasury actually attended or has he sent a deputy. I think it would be quite important if in the working of the council—and I have no feeling that it would be different under another Administration—if in effect the working group that attend the meeting are designees of the Secretaries perhaps Assistant Secretaries. It is quite different to have the executive director running that operation when his power and influence over an Assistant Secretary is considerably more than it would be with Secretary Connally or Secretary Rogers.

If there are frequent meetings then it would suggest that the council really runs the policy. If the meetings are infrequent, I would judge the staff may run it then because they apparently don't need much direction. I would like as much information on the practical workings of the council as you can give us, to be supplemented in some detail by whatever backup material you can provide.

Mr. CARLUCCI. Let me try to answer your specifics. If my memory serves me correctly, there have been three meetings of the council itself, two of which—

Senator PERCY. That is over how long a period of time?

Mr. CARLUCCI. Since its creation in January, 1971.

Two of these meetings have been chaired by the President. In the President's absence, the meetings are chaired by the vice chairman who is the Secretary of State.

I think it is perhaps misleading to judge the activity of the council as a body by the number of cabinet level meetings that have been held. There is a group known as the Senior Review Group.

Senator CASE. A what?

Mr. CARLUCCI. Senior Review Group, which is generally at the Under Secretary level or Assistant Secretary level, which has met some 16 times, and there are also various operating groups. The major Operations Group is chaired by Under Secretary Irwin of the State Department.

#### TYPES OF MATTERS DISCUSSED AT FULL AND SUBORDINATE MEETINGS

Senator PERCY. What are the differences in type of matters discussed at the full meetings which are held, say, every six months, and at the subordinate meetings that are held, let's say, once a month?

Mr. CARLUCCI. Perhaps I had better submit something for the record on that, since I have not participated directly in these meetings. Obviously, those that are presented at the full meetings chaired by the President are major policy decisions. There are a number of other decisions, say, on matters related to tariff negotiations or investments overseas, investment policy, which could perhaps be discussed at the Senior Review Group level. If there is general agreement at that level with the Under Secretaries speaking for their Secretaries, there may not be a need for a meeting of the council itself and papers could be presented to the President with recommendations of the various agencies.

So I think the nature of the forum or how the forum operates depends on the type of problem that they are looking at; but I would be glad to submit some illustrative examples of the kind of issues that the groups may be dealing with.

(Information concerning the organization and functions of the council follows:)

#### SUMMARY OF ORGANIZATION AND FUNCTIONS OF THE COUNCIL ON INTERNATIONAL ECONOMIC POLICY (SUPPLIED BY OMB)

##### MEMBERSHIP AND ORGANIZATION OF THE COUNCIL

Members of the Council are: The President; the Secretary of State; the Secretary of the Treasury; the Secretary of Defense; the Secretary of Agriculture; the Secretary of Commerce; the Secretary of Labor; Ambassador at Large David M. Kennedy; the Director, Office of Management and Budget; the Chairman, Council of Economic Advisers; the Assistant to the President for National Security Affairs; the Assistant to the President for Domestic Affairs; the Special Representatives for Trade Negotiations.

In the absence of the President, meetings are chaired by the Secretary of State.

An Executive Director is designated to assist the Council in the operations. A small staff serves the Executive Director in fulfilling this assignment.

The Executive Director also serves as Assistant to the President for International Economic Affairs and is compensated from the White House Office appropriations account.

#### OPERATIONS OF THE COUNCIL

The Council meets periodically, as necessary, to fulfill its function. The Executive Director of the Council has ready access to the President and is responsible for organizing the general secretariat of the Council and for necessary staff work. In collaboration with the members of the Council or designated individuals at the senior political appointee level and pursuant to the directions of the President, the responsibilities of the Executive Director include:

Develop the agenda and supporting materials for Council meetings and review all papers going to the Council.

Help develop a sense of direction, strategy and relationship of the parts to the whole of this problem area.

Establish a work program, including topics, timing and identification of individual assignments and set up task groups on special topics.

In addition to his own small staff, the Executive Director may call upon staff resources from throughout the government and is assisted by the following organizational apparatuses:

Senior Review Group, Operations Group, CIEP task groups, Joint CIEP/National Security Council interdepartmental groups.

##### *Senior Review Group*

A Senior Review Group of the Council has been established. The Group:

Reviews papers for submission to the Council. Such review will assure that issues are fully and objectively stated, that department and agency views are fairly and adequately set out, that all realistic alternatives are presented, and that the issues require Presidential decision. A paper prepared by the Operations Group, task groups, or one or more agencies, which requires Presidential action but which need not be considered by the Council can be considered by the Senior Review Group and recommendations, based upon this consideration, can be sent directly to the President.

Acquisition, for implementation or study to the Operations Group or other task groups of the Council.

The membership of the Senior Review Group consists of the Assistant to the President for International Economic Affairs, who serves as Chairman of the Group, and designated representatives of members of the Council at the senior political appointee level.

##### *Operations Group*

An Operations Group, which includes the Executive Director or his representative and representatives of the various Council members, has been formed. Responsibilities of the Operations Group include the following:

Follow up on decisions reached.

Coordination of actions of the Government where that is necessary.

Review of operating problems arising out of actions of other governments or outstanding international economic developments which do not require consideration at the Council or Presidential level.

Responsibility for carrying out such studies as are assigned to it.

The State Department chairs the Operations Group standing or special subcommittees are added from time to time.

##### *Task Groups*

The Executive Director may form Task Groups to deal with specific problems, with staff work performed by the best expertise available. These groups can and do use the services of consultants from outside the government, when appropriate.

##### *Joint CIEP/NSC Interdepartmental Groups*

Whenever issues under consideration by NSC interdepartmental groups include significant economic issues, the Assistant to the President for International Economic Affairs shall be represented. Economic matters within the purview of the CIEP, formerly treated by the NSC interdepartmental groups, have become the responsibility of the CIEP, or are handled through joint NSC/CIEP working groups.

## WHO SPEAKS FOR ADMINISTRATION ON FOREIGN ECONOMIC POLICY?

Senator PERCY. In the foreign economic policy area we have access to the State Department. We can directly question the Secretary, the Under Secretary, but when the Administration asked me to undertake the leadership in sponsoring a piece of legislation that would create a new position of Under Secretary of State for Economic Affairs, I had the very strong implication that it felt it had lost so much clout in this field that it needed a full-time, statutory Under Secretary for Economic Affairs, and they were trying to beef up their operation because they had lost power.

Do you think when we have an Assistant Secretary or an Under Secretary up for questioning, that he does speak for the Administration on international economic policy, or is he constantly subject to the Secretary of Commerce, or the Secretary of the Treasury who shares a good deal of this power? How do we get at finding out what policy really is when, for instance, the State Department is saying we should expand trade and help the developing nations of the world and Secretary Stans is in Europe talking about textile protection and quotas?

Mr. CARLUCCI. Well, of course, this would be one of the purposes of the President's report, to lay out the broad policy as established by the President, and then individual agencies would be available to discuss with the committee their pieces of that policy implementation process.

With regard to your question on Under Secretary of State for Economic Affairs, I think you and I discussed this informally before you did introduce the measure.

Mr. PERCY. And I concurred with it. I felt it was essential.

Mr. CARLUCCI. I think this reflects a growing need for the State Department to have a focal point in an area which is becoming increasingly important. They are really just modifying their organization to keep pace with the times, if you will. I would assume that, when the Under Secretary is appointed and he comes up before this committee, he will be speaking with full authority. As you are aware when we testify on major matters, we attempt to see that they can speak for the Administration. The executive level appointee who comes before a committee should be in position of speaking for the Administration and you should be entitled to interpret it that way.

## POWER OF AND NEED FOR EXECUTIVE DIRECTOR

Senator PERCY. I have long felt this is a very big problem, and my feeling goes back many, many years since the time when I testified year after year against the protectionist position of our photographic and instrumentation field, a position I felt was contrary to the national interest. I believed it was up to the companies to adjust, not to ask the country to adjust.

So I felt very strongly about it, so strongly that on two previous occasions when my successor at Bell and Howell, Peter Peterson, was asked to come to Washington, I said to the board and to him that I didn't see how he could do it. Why give up the power he had in a great company and come down to take a job here that didn't have much power?

But when this job came along, the creation of this council, I said he couldn't afford not to come down and help the President bring order out of chaos in international economic policy. If he could help, Bell and Howell ought to make any adjustment necessary to make that possible.

So I have a very deep personal feeling about this and I don't underestimate the power of this particular job and the need for it.

#### EXECUTIVE DIRECTOR'S ACCESS TO ADDITIONAL PERSONNEL

Our job is to find who in the Administration has the clout, who makes the decisions, whose thinking is important in the process, and get access to him. That is my whole point, and I wondered if you could tell us from the standpoint of the question Senator Case asked about power and staff, is there any limitation except in the overall appropriation process level, on the power of the council's executive director to obtain personnel from existing Federal agencies on an unreimbursable basis? In other words, can he requisition personnel? I do know that the President has done the best job of any President I know in getting away from the process of having in the White House full-time, four-year or eight-year people assigned to other agencies who never show up in the budgetary process.

But what access does the executive director here have to additional personnel to help him, and maybe it is not an agency as such, but directly and indirectly how many people can be mustered to get help in this very complex field?

Senator CASE. The bill provides there may be people who are drafted on a reimbursable basis; but there is nothing in here about nonreimbursable basis. What's the situation on that?

Senator PERCY. Let's have it both ways then, Mr. Carlucci.

Senator CASE. There is no limit on this except the basis.

Senator PERCY. How many can he have on a nonreimbursable basis and how many on a reimbursable basis?

Mr. CARLUCCI. The President does have authority to request the agencies to detail people on a nonreimbursable basis to the White House. Indeed, the 26 members of the present staff of the CIEP are on detail from the agencies. However, President Nixon, as you point out, Senator Percy, has instituted a policy of cutting down on the nonreimbursable details and presenting a so-called honest budget.

Senator CASE. Honest?

Mr. CARLUCCI. Honest accounting of the White House staff, which in itself explains some of the misconceptions that seem to exist on this issue.

We would envisage that our request for 29 positions, \$1.4 million with a slight expansion in 1974, would satisfy the needs of the council for staff and for consultants, such consultants as may be used from time to time, and there would not be large numbers of people on detail, either reimbursable or nonreimbursable, from the agencies. Indeed, I should think that once the organization has the statutory base and has a staff of its own, the agencies would justifiably resist any detail of people, much like they would resist it if OMB would ask for it. Congress would be able in its oversight review of the agency, both in the authorization and the appropriation process, to ascertain

how many people are being detailed to the White House staff for this particular function.

But let me repeat, we envisage that the appropriation request that was set out in the 1973 budget document for the council will be sufficient for its staffing needs and we don't foresee any need for people to be detailed in addition to that.

#### EXAMINATION BY APPROPRIATIONS COMMITTEE

Senator SPARKMAN. If you will yield to me there, of course this whole thing is limited to two years and the amount authorized is, I recall, \$1.4 million the first year and \$1.6 million the second year and that is simply the authorization. The Appropriations Committee, when it takes up whether or not it shall approve the full \$1.4 million or less, certainly would have the right, and would be expected to go into all of these things that you mentioned. Then when the second year appropriation comes up they will have the right to examine what has been done during the first year. So I don't see that there is anything for us to be afraid of in that connection.

Mr. CARLUCCI. We, of course, would be prepared to testify on the appropriation request as we do on the White House appropriation request.

#### REQUIREMENTS FOR FULL REPORTS TO COMMITTEES

Senator SPARKMAN. In that connection, there has been a lot said here about Congress having no part to play in this. We discussed this thoroughly in the Banking Committee and we wrote in requirements for full reports to our Banking Committee in the Senate, the Banking Committee in the House, and the Joint Economic Committee. Certainly, based on those reports we could call up the executive director or any of the staff or any of the members and hear testimony as to the substance in the report. We can examine it, go into it, break it down. I do not subscribe to the idea that the executive director would absolutely refuse to come up and appear before the committee. I think there would be things that he could testify on and could easily testify on without invading executive privilege. I want to say to my friend from New Jersey that, so far as I am concerned, I have never found any great fault in this separation of powers. In fact, I rather like it. I think it is something we ought to guard very carefully and I don't know but what we ought to be grateful to President Washington.

Senator CASE. For many things, but not this.

Senator SPARKMAN. Yes, and for upholding the right of the Senate to consider—

Senator CASE. He was cute enough.

Senator SPARKMAN. In considering this treaty situation and many of these other things we have, I don't see any of these scarecrows a lot of people see in this separation of powers.

#### WOULD MR. FLANIGAN APPEAR IF ASKED?

Senator PERCY. Mr. Chairman, are you saying you have an agreement in this case that Mr. Flanigan will appear before the Banking Committee if you ask him to come up?

Senator SPARKMAN. No, I didn't say that. I am saying I felt confident he will respond to a request of Congress to appear to testify regarding things that are in the report that he submits to us or is submitted to us by the council or regarding anything else so long as it does not infringe upon executive privilege. In other words, if he has dealings with outside people other than the President, I see no reason why he should not be willing to respond to—

Senator PERCY. Could Mr. Carlucci, on behalf of the Administration, respond to that and tell us whether your understanding and feeling would be supported by the Administration, because if that is true we may have come a long way.

Senator CASE. Would this director be available to appear before Congress in the way a cabinet official does?

Senator PERCY. Not that we don't enjoy the coffee type of thing.

Senator CASE. Would he or wouldn't he?

Mr. CARLUCCI. The staff member would be prepared to come up and testify.

Senator CASE. The staff director?

Mr. CARLUCCI. On the budget; I don't know who would be the appropriate person. I think this would have to be looked at on an ad hoc basis. I guess it is fair to say that we would have some concern about the executive director testifying on a continuing basis in terms of what I described earlier by a basic change in the organization regarding his confidential relationship with the President, but I would be happy to take a look at it.

Senator SPARKMAN. May I say I accepted that?

Senator CASE. Accepted what?

Senator SPARKMAN. Executive privilege.

Senator CASE. Yes, but this is sharpening the issue and it is a very fair statement. The answer is the director will not be available for questioning, subject to exceptions.

Senator PERCY. I wouldn't want Senator Sparkman to be under the impression he could call him up when he couldn't.

#### MR. FLANIGAN'S APPEARANCE AT KLEINDIENST NOMINATION HEARINGS

Senator SPARKMAN. Let me recall in the case of the ITT hearings—well, it was actually confirmation of Mr. Kleindienst—that Mr. Flanigan was asked to appear and testify. There was a clear understanding, in an exchange of letters, as I recall, that he would testify so long as it did not infringe upon the executive privilege of the President's office. Under those conditions he appeared and testified.

Senator PERCY. But would you want to go through that same struggle, Mr. Chairman, because there were considerable negotiations and the power of withholding the nomination was there.

Senator CASE. There was kicking and screaming; there was no question about that.

Senator SPARKMAN. The precedent has been established.

#### HAS PRECEDENT BEEN ESTABLISHED FOR MR. FLANIGAN'S APPEARANCE?

Senator PERCY. You know if Mr. Carlucci would favorably respond that the precedent has been established and Mr. Flanigan would

appear without the struggle that ensued then, then I think much has been accomplished by these hearings. I am not sure he is prepared to commit the Administration.

Senator CASE. He doesn't want to leave any misunderstanding in anyone's mind, I am sure.

Mr. CARLUCCI. That's right. We are drawing a parallel with the Domestic Council and the National Security Council, in which we would much prefer to have the informal consultation route and keep the committee informed that way, since we are concerned about inherently changing the nature of the organization from a forum to an operating entity.

#### DIRECTOR'S AVAILABILITY TO TESTIFY ON ANNUAL FUND REQUEST

Senator CASE. May I ask a question on this? This would be the general position. How about his availability to testify in support of the extension of the legislation in his annual request for funds?

Mr. CARLUCCI. In his annual request for funds, the Domestic Council, using the same parallel, has sent up a deputy director to testify. Of course, the deputy director of OMB has testified on annual appropriations requests for the White House in general, and I would envisage that would be the procedure we would follow in this case.

#### EXECUTIVE DIRECTOR NOT NORMALLY AVAILABLE FOR COMMITTEE QUESTIONING

Senator CASE. But still your reservation about the breaking down of the position would make the answer to the chairman's questions that he is not available for questioning by the committee or by any congressional committee.

Mr. CARLUCCI. The nature of the position is such that we would think that he would not normally be available.

Senator CASE. It is only fair to have that on the record.

#### DISTINCTION BETWEEN DIRECTOR AND DEPUTY DIRECTOR QUESTIONED

Senator SPARKMAN. I don't see any real distinction between the director and the deputy director. If the deputy director comes—

Senator CASE. He is closer to the power.

Mr. CARLUCCI. Whether it is OMB or not, the deputy director will be accountable for the functioning through the annual appropriation process, and somebody is going to have to testify for the appropriation.

#### PARALLEL SITUATION OF MR. KISSINGER

Senator SPARKMAN. By the way, somebody brought in the somewhat parallel situation of Mr. Kissinger.

Senator CASE. Why does his name keep coming up?

Senator SPARKMAN. Did you bring it up? Maybe Senator Percy brought it up.

(Laughter.)

Senator SPARKMAN. Anyway, the Senator from New Jersey knows—I am not sure whether or not Senator Percy has been in any of these meetings—and I know we have had a great many informal meetings

with Mr. Kissinger in which we have discussed quite fully and informally matters that have taken place. There has been no record made or anything like that.

Senator PERCY. There were notes taken.

Senator SPARKMAN. I think rather satisfactorily. What?

Senator PERCY. There were notes taken and that was agreed in the negotiations that the chief of staff of the committee was authorized to take notes and to put them in the record so that it was a formalized procedure.

Senator SPARKMAN. I am thinking more of meetings in private homes and get-togethers here on the Hill.

Senator CASE. Very pleasant, indeed.

Senator SPARKMAN. I don't believe any notes were made.

Senator CASE. I think almost too pleasant.

Senator SPARKMAN. I know Senator Case has been at many of those I attended.

Senator CASE. Indeed, and I know Senator Percy made it, too, as a young man and he is coming along in great shape, I think.

(Laughter.)

Senator SPARKMAN. So I have always felt there can be maintained a very fine rapport between the executive and the legislative on an informal basis without destroying the sacredness of the executive privilege. I certainly think that we will be able to do the same thing in this.

By the way, I found out that in these private meetings with Mr. Kissinger at first notes were not taken, but in the last two meetings they have been taken, submitted to him, cleared and come back in their final form.

#### NONAPPEARANCE OF MR. FLANIGAN TO DEFEND PENDING LEGISLATION

Senator PERCY. Mr. Carlucci, why is it that Mr. Flanigan is not here to defend his own budget and this legislation that would establish a council of which he will be the operating head, while the President clearly has the ultimate responsibility and authority? Again, was he asked to be here, Mr. Chairman, and, in other words, is this the principle of it, that he will neither be here to support his budget nor will he be here to support the way the policy—

Mr. CARLUCCI. Well, the answer—

Senator SPARKMAN. I want to say Mr. Carlucci is here complying with the request from Chairman Fulbright. I don't know whether there was any discussion between Senator Fulbright and Mr. Flanigan or not. I had nothing to do with it.

Mr. CARLUCCI. I am not aware of any, but the Office of Management and Budget, of which I am the Deputy Director, has basic responsibility for organizational issues in the Federal Government and we have basic responsibility for the allocation of financial resources. Hence it is quite usual for us to testify on establishing new organizational entities. As you are aware, I have been the principal witness on the Administration side in the President's major domestic reorganization proposal. So much the same type of situation applies here.

QUESTIONING MR. FLANIGAN DIRECTLY ON BUDGET AND COUNCIL  
OPERATION

Senator PERCY. If, for instance, the committee wanted to question Mr. Flanigan directly on this budget and how the council operates, will operate, and has operated in the past and will operate in the future, would there be any reason that he could not come before the committee for that purpose?

Mr. CARLUCCI. We would certainly be prepared to get the committee all the information it desires. We in OMB would be prepared to testify; and, as I indicated earlier, I think a precedent has been set for having someone on the council staff testify on budgetary matters. We would prefer to utilize the informal route that you described earlier with regard to Dr. Kissinger and that the chairman described just a few minutes ago in connection with contact between the executive director and the committee. Our reason for that, as I explained earlier, is to maintain the sanctity, so to speak, of the concept that we are developing here of the council as a forum rather than operating entity.

Senator PERCY. But we respect virtually everyone in the Senate, anticipating he could be in the President's chair some day, and we respect executive privilege. We would not question him on that; he would not be put in a position where he was revealing confidences, but we simply want to know how this council operates, how it comes to its decision-making process. My feeling is the public really has a right to know how its government operates and it should not be done in the secrecy of my home or Senator Sparkman's home, without notes taken, after a long negotiation. As the principal sponsor for the Administration's executive reorganization bills, I respect the Administration for having the guts to state that the Ash report—which was a follow-up certainly of the Heineman report, which came out of the Hoover Commission—"We are going to try to fight this through and make this government function." These three councils that have been established are so brilliant in concept and so good that they ought not to be made subject to the whim of any one President. They ought to be embodied in law and that is what we are trying to accomplish.

PUTTING MAN IN POWERFUL POSITION REMOVED FROM CONGRESSIONAL  
INFLUENCE QUESTIONED

But, on the other hand, as we set them up, I am still concerned that we would put a man in a very powerful position—and we all agreed it is a powerful position—and have him totally and completely removed from Congress, from the influence of the Banking, Housing and Urban Affairs Committee. It is a policy matter that I struggled with and the chairman struggled with for four years on the committee to find out what is right because we have a clear responsibility in the trade-tariff area, and we should not be deprived of having the direct views of the one man whose sole job it is to pull all of this together. This Administration has done a great job in making all of this possible now in an orderly fashion but I think it is such a good job I want to be sure we make as much of it as permanent as we possibly can. It is not a slap at the Administration or any lack of respect because these three men are about as good men as we would ever hope to have

a President appoint, but to see whether or not, keeping away from executive privilege and immunity, there are not certain areas where the Congress has the responsibility to inquire.

#### ADMINISTRATION REACTION TO EMBODYING CONFIRMATION IN LEGISLATION

My only remaining question is if we do embody confirmation in the legislation, would the Administration feel so strongly that it might then not ask for or support legislation to make the council statutory, and would it just operate the council very informally then on funds that it can find in the budget someplace else but not specifically provided for this purpose?

#### MR. FLANIGAN'S RESPONSIBILITY

Mr. CARLUCCI. Senator, if I may respond to several of the points you made, I share your high regard for Peter Flanigan, but I think to describe him as the one man whose sole responsibility is to pull all these policies together and to give orders to the Secretary of State, Secretary of Commerce—

Senator PERCY. I didn't say give orders; I said it is his sole responsibility to pull it all together. Name any other single individual whose function it is in this government to pull all these things together? He is the only one I can name.

Mr. CARLUCCI. Well, there are various—

Senator PERCY. There are various people spending full time, but it is not their responsibility to pull it together from all agencies. It is their responsibility in State to do the State end, in Commerce to do the Commerce end, and Treasury to do the Treasury end; but he is the one man, with his staff, who has the job of pulling it all together and he is the one man, if he is experienced in that field, who could give us the benefit of a tremendous amount of advice, and to whom we who have deep feelings in this field should transmit our thoughts and ideas, not that he has to take them at all.

Mr. CARLUCCI. I would argue that the one man who pulls it all together is the President and—

Senator CASE. He is a single human being and he has a few other things to do.

Mr. CARLUCCI. He has the staff assistance available through Mr. Flanigan and various others in the White House.

#### KEEPING COMMITTEE AND PUBLIC INFORMED

But let me go back to the earlier point you made, Senator, with regard to the public's right to know how this organization operates and how it arrives at its decisions.

We agree with that; we are not disputing that concept for one minute and we agree that the Congress should know. It is just a question of how the Congress is kept informed that we are discussing and we agree with an annual report which sets forth the substance of the policy.

We think that the appropriate people to testify are the members of the council who are confirmed by the Senate in all but one or two cases and who will certainly be available to this committee.

In addition, we will be prepared and when I say we—OMB and perhaps somebody on the council—to testify in the appropriation process. Obviously if it is all not working two years from now, you have got the extension of the authorization which would be considered by the Congress; so there are a number of opportunities. In the example you take the important matters of East-West trade—well, surely the Secretary of State and the Secretary of Commerce are the two people most concerned and would be prepared to testify on these issues. So we do feel that provision does exist for keeping the committee and the public informed and it is far from our intent to undermine that kind of process in any way.

#### ADMINISTRATION OPPOSITION TO CONFIRMATION

With regard to your final question, which is really the hypothetical question of what would we do if the Congress chooses to put—I take it you are referring to Senate confirmation, testifying, and what would be our position—we strongly oppose that. I cannot predict what the President's decision would be if the bill should reach him in that form; only he can make that kind of decision. I cannot make it for him.

Senator PERCY. I have no further questions, Mr. Chairman.

I thank Mr. Carlucci very much indeed.

Senator SPARKMAN. Senator Case, do you have any further questions?

#### REVISION OBLIGATING EXECUTIVE DIRECTOR TO KEEP CONGRESS CURRENTLY INFORMED

Senator CASE. Only one: Perhaps you have dealt with this in your answers to other questions. Isn't there a provision in here somewhere, which places the obligation on the executive director, to keep Congress currently advised as to the activities of the council?

Mr. CARLUCCI. That provision is not in this legislation. That was in the letter that was sent to Mr. Weinberger, a suggestion that it be written in, and I have addressed it in my prepared statement.

Senator CASE. You have? I see, then I will read it.

Thank you, Mr. Chairman.

Senator SPARKMAN. Well, thank you very much.

#### COMMITTEE ACTION

I hope we can hold an executive session tomorrow afternoon for the consideration of this.

By the way, under the mandate under which this was referred to the committee—

Senator CASE. Is this referred to us—

Senator SPARKMAN. I asked it be referred because of this.

Senator CASE. Just for advice or do we have—

Senator SPARKMAN. I believe it is for advice. I don't believe it calls for a separate report. Isn't that right?

Mr. MARCY. No, sir, Senator, I believe it calls for a report and the committee will need to act and report, with amendments or without.

Senator SPARKMAN. Whatever action the committee takes, it has to take not later than Monday.

Mr. MARCY. That is correct.

Senator SPARKMAN. Tomorrow morning we are going to hold further hearings on the strategic arms limitation agreements. We have called a meeting for 2:30 tomorrow afternoon; haven't we?

Mr. MARCY. Yes, sir.

Senator SPARKMAN. Two thirty tomorrow afternoon in executive session and I hope we will be able to act on both this and on the SAL agreements. So I hope we will have a quorum present and be ready to act.

I thought holding it at 2:30 and, of course, it will be in this room. Even with voting going on the Floor, we will be able to get a quorum.

Senator CASE. The chairman is going to be away?

Senator SPARKMAN. I don't know.

Mr. MARCY. We don't expect him back before this weekend at the earliest.

Senator CASE. Has he any comments on this himself?

Senator SPARKMAN. You mean the chairman? Did you read the letter he wrote Mr. Weinberger? I think he expressed himself quite well in that letter.

Senator PERCY. Is that June 28th?

Senator SPARKMAN. June 28 and it has been made a part of the record.

Thank you very much. Thank you, Mr. Carlucci.

Mr. CARLUCCI. Thank you, Mr. Chairman.

Senator SPARKMAN. We appreciate your patience.

The committee stands adjourned.

(Whereupon, at 11:55 a.m., the committee adjourned, subject to the call of the chair.)

○