TRADE REFORM

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HEARINGS

BEFORE THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 6767

THE TRADE REFORM ACT OF 1973

MAY 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 29, 30, 31;
JUNE 1, 6, 7, 8, 11, 12, 13, 14, AND 15, 1973

Part 10 of 15

(May 30, 1973)

Printed for the use of the Committee on Ways and Means

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TRADE REFORM

WEDNESDAY, MAY 30, 1973

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in the committee room, Longworth House Office Building, Hon. Al Ullman presiding.

Mr. ULLMAN. The committee will please be in order.

Our first witness this morning on the subject of electrical manufacturers, office machines, computers, and business equipment is Mr. Bernard H. Falk. Mr. Falk, we welcome you before the committee. Please further identify yourself for the record and identify your colleague and we would be pleased to hear you.

STATEMENT OF BERNARD H. FALK, PRESIDENT, NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION, ACCOMPANIED BY THEODORE F. CROLIUS

Mr. FALK. Mr. Chairman and members of the committee, I am Bernard H. Falk, president of the National Electrical Manufacturers Association, often referred to as NEMA. I am accompanied by Mr. T. F. Crolius of the law firm of Sharon, Pierson, Semmes, Crolius and Finley.

NEMA is the principal national trade association of the electrical manufacturing industry, an industry whose shipments this year will be nearly $60 billion. The association has 525 member manufacturing companies who are affiliated with one or more of our 70 product sections. The electrical products within the NEMA scope are used either as components or as end equipment in the generation, transmission, distribution and control, and utilization of electrical energy.

NEMA supports the enactment of the Trade Reform Act of 1973, substantially in the form proposed by the President; we have submitted in our written statement several recommendations and proposed amendments which we believe will strengthen the bill and make its objectives more attainable.

Foremost among these insofar as the electrical manufacturing industry is concerned is the need to spell out specific criteria to be observed by our U.S. representatives in new trade negotiations to obtain equality of access to all world markets for electrical products. My oral testimony today will deal with this objective.

THE NATURE OF THE ELECTRICAL MANUFACTURING INDUSTRY

Electrical manufacturing is truly a worldwide industry with worldwide markets. Virtually every nation has some degree of electrical

manufacturing; the major industrial nations, without exception, have well-diversified industries. But, large or small, thoroughly developed or less-developed, the other nations of the world consider particularly their electrical industries to be an important national resource, a reflection of their technological capabilities, and a leading candidate for economic growth.

In general, their views are realistic, for these national electrical industries provide key products for domestic consumption not only by the private sector of each country but also, at least equally important, to government-owned and -developed electric utilities, transportation and communications systems, housing and construction, medical centers, and basic manufacturing industries. Moreover, in a number of countries, in addition to supplying home market demand, these electrical manufacturing industries are major exporters. As a result, the worldwide trade in electrical goods is among the biggest of the various categories of manufacturers.

EXPERIENCE IN NEGOTIATIONS

For years, NEMA has continued its general support of policies directed toward establishing free and fair competition in the international trade of electrical goods. Unfortunately, experience has shown that such objectives are easier to talk about than to achieve.

In connection with the Kennedy round negotiations, NEMA, in 1964, emphasized two basic points to our government:

1. Maximum reciprocal tariff reductions could and should be made with respect to the overwhelming majority of products within the electrical manufacturing industry only if nontariff barriers which foreclose U.S. participation in major foreign markets could be substantially reduced or eliminated at the same time.

At the close of the Kennedy round negotiations, U.S. tariffs on almost all electricals were staged to the maximum 50 percent reduction with no agreements reached—or discussed seriously, as far as we know—on nontariff barirers.

2. In Western European countries and Japan, the principal competitors of United States electrical equipment manufacturers and potentially their largest foreign markets, U.S. manufacturers were effectively foreclosed from selling many of their products because of nationalistic procurement policies of utilities owned or controlled by foreign governments.

At the same time, electrical industries in these countries, secure in their insulated home markets, were unrestricted—except for a low tariff and Buy American differential—to enter into the U.S. market. Not only was there no progress on this point of lack of reciprocity; the facts are that these foreign markets are still virtually closed to U.S. producers, while our U.S. utilities have ordered several hundred million dollars worth of this high technology equipment, in the past few years, from Western European and Japanese producers.

In 1968, approximately one year after the Kennedy round negotiations were concluded, U.S. trade authorities became convinced—partly, we believe, as a result of NEMA's representations—that restrictive nationalistic procurement in heavy electrical equipment had created clear conditions of unfairness in international trade. Seeking correc-

tion, these negotiators initiated working party discussions within the Organization for Economic Cooperation and Development OECD. At the U.S. negotiator's request, NEMA submitted a proposed international code for electrical equipment procurement by electric utilities under the ownership or control of national governments. The code thus proposed was modeled upon the U.S. Federal Procurement Regulations. Today, in 1973, the negotiations continue at a desultory pace. Meanwhile the one-way street in the trade of heavy electrical equipment continues, to the detriment of the U.S. industry.

RECOMMENDATIONS

We believe that a new round of trade negotiations cannot accommodate the needs of the electrical manufacturing industry unless there is a new concept introduced into the conduct of these negotiations.

What we are urging is a departure from the previous criteria and methodology of international trade negotiations. The balancing of volumes of trade that has characterized all previous rounds of negotiations up through the Kennedy round is inequitable and inefficient. It means that U.S. negotiators can—indeed must—dispense rough justice in the name of the overall U.S. economy. They can, under this methodology, make the judgment that $100 million worth of soybean concessions to the United States is worth $100 million worth of electrical product concessions to the Common Market. On this theoretical basis, the United States always appears to come out even as long as the aggregate dollar volume of concessions is not disproportionately against us.

The well-being of the complex and essential U.S. electrical manufacturing industry should not be subjected to negotiations which are lacking in fundamental economic due process. Not only is it unfair to our industry; it can be erosive of the U.S. economy by subordinating trade strengths to mere trade volumes. Mr. Chairman, I am using examples merely to illustrate a problem, not to criticize the treatment of any other product, $100 million of soybean or lumber exports may not be at all the same in terms of national economic strength or of industrial base or growth potential as imports of $100 million of high technology electrical equipment.

Thus, we are advocating that U.S. trade officials be instructed by statutory guidelines or criteria to adopt an "industry sector" approach. They would, in effect, negotiate to the objective—in our case—of achieving reciprocity in the international trade of significant categories of electrical products. Their fundamental question would be: Are the expense and barriers to entry of U.S.-made electrical products in foreign markets no higher or greater than the expense and barriers to entry of similar types of foreign electrical products into the United States? On this basis, tariffs—to the extent they are still an import barrier in this post-Kennedy round era—and nontariff barriers can be negotiated realistically and effectively in the interests of expanded, liberated international trade. Each party to the negotiation is then put to the test: Do you really want genuine international trade in electrical products? Are you willing to compete head to head? Or do you really want to perpetuate an imbalance in your favor by

offering to give up something less important to you—although it may be measured in the same aggregate dollar value?

Within the context of distinct "sector" negotiations, we make three procedural suggestions:

1. NEMA believes that the opportunities for legitimately interested nongovernmental parties to be heard during the course of trade negotiations are thoroughly inadequate. The requested 5 year temporary negotiating authority—while probably necessary to the task—is a long time, long enough for international economic trends to turn precipitously and for competitive conditions and comparative advantages to be altered drastically. Our past experience has taught us that, no matter how well informed U.S. trade negotiators might be at the start of a protracted period, they may well become progressively detached from the trade needs and urgencies of a complex industry as time passes and as they lose proximity to primary, authoritative sources of factually current information and interpretation of trends.

We note that the procedures set forth in sections 111 to 114, inclusive, appear to limit public hearings and nongovernmental advice to the prenegotiation phases of the trade agreements process. Such limitation on the voices of those legitimately concerned in the outcome of the negotiations, we suggest, does not accord with the best interests of a successful negotiation.

NEMA therefore proposes that title I be amended to require that the President's negotiators consult regularly and systematically, throughout the duration of their negotiating authority, with designated representatives of industry, labor, agriculture, and the general public who have legitimate interest in each specific negotiation. Such consultation should go to the substance of these negotiations and, we believe, should be mandatory. Because of the requirements for confidentiality and flexibility in reporting and discussion during such consultations, we recommend further that the meetings above provided be exempt from the requirements contained in section 10(a) of the Federal Advisory Committee Act and such other law requiring open hearings, public disclosure, and open participation. In protection of the public interest, we suggest the keeping of detailed minutes of such meetings and their availability for scrutiny by proper legal authority.

2. Preferably by amendment of section 103, "Nontariff Barriers to Trade," but at a minimum in the committee's report, we urge that the scope of Presidential authority and the task of the negotiators be declared specifically to include negotiation for the purpose of reducing, eliminating, or harmonizing Government-supported incentives as well as nontariff barriers. We cannot exaggerate the importance of these needed corrections in international trading rules. Embodiment of such authority in the law or congressional reports will give clear declaration of the U.S. intent to deal firmly with questionable trade practices and thereby give greater impetus for the exercise of the President's retaliatory powers of section 301 and application of the countervailing duty statute under section 330.

3. In light of the relatively greater impact of nontariff distortions on the flows of international trade, we believe that negotiating priority should be placed on concluding meaningful agreements covering nontariff barriers and export incentives. Thank you, Mr. Chairman.

[Mr. Falk's prepared statement follows:]

STATEMENT OF BERNARD H. FALK, PRESIDENT, NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION

I am Bernard H. Falk, President of the National Electrical Manufacturers Association, often referred to as NEMA.

NEMA is the principal national trade association of the electrical manufacturing industry, an industry whose shipments this year will be nearly 60 billion dollars. The Association has 525 member manufacturing companies who are affiliated with one or more of our 70 product Sections, each Section, in essence, representing a separate and distinct industry. The electrical products within the NEMA scope are used either as components or as end-equipment in the generation, transmission, distribution and control, and utilization of electrical energy.

NEMA supports the enactment of the Trade Reform Act of 1973 substantially in the form proposed by the President, but we have several recommendations and proposed amendments which we believe will strengthen the bill and make its objectives more attainable.

Consistent with our past representations to this Committee, the Senate Finance Committee, and Executive agencies concerned with foreign trade, NEMA believes that liberal policies which encourage international trade unfettered by high tariffs or restrictive conditions are the policies most conducive to economic growth and well-being throughout the world.

Unfortunately, ideal conditions of free and fair competition in trade among countries are much easier to talk about than to achieve, and continuing vigilance and commitment to these conditions by national governments and international bodies is essential to attain open access to all markets by everyone.

One major area of virtual non-access, to our industry, is the publicly-owned utility system markets of foreign nations who procure equipment almost entirely from their own domestic sources. At the same time, foreign manufacturers of heavy electrical equipment have virtually unrestricted access to the U.S. market, as attested by the presence in American electrical utility systems of several hundred million dollars worth of foreign-made electrical equipment.

With this glaring trade inequity in mind, we are particularly hopeful that the Congress, in the legislation it passes, will spell out specific criteria to be observed by our representatives in new trade negotiations to obtain equality of access to all markets, including the establishment of full reciprocity in the procurement practices of government agencies and publicly-owned utility systems.

Our particular comments with regard to the aspects of H.R. 6767 of significance to us follow.

I. AUTHORITY FOR NEW NEGOTIATIONS

NEMA generally supports Title I of H.R. 6767 to give the President authority to negotiate tariffs and the elimination of non-tariff barriers. But we are convinced that these negotiations must proceed from very carefully defined objectives and must follow disciplined procedures on an industry-by-industry basis.

Because of this country's compelling need for expanded exports and the demonstrated ability of the American electrical industry to contribute to such an expansion, NEMA believes the Title I authorities are consistent with the manifest national need for a significant rewriting of the international rules of trade between nations. These authorities are essential for the protracted and arduous bargaining that must inevitably accompany such rewriting of the rules; they are essential in order to create a more liberal trading world in which this country will have the opportunity to regain its traditional position as a net exporter.

To the U.S. electrical industry the intention of the United States to negotiate simultaneously on *both* tariffs and non-tariff barriers provides the only effective opportunity for the adjustment of trade imbalances, the mitigation of unfair international competition, and the creation of enlarged world markets for the industry's many and diverse products. Virtually every country has some elements of an electrical manufacturing industry; the major industrial nations almost without exception have well diversified industries. The other nations of the world consider their electrical industries to be—in some substantial degree—an important national resource and a candidate for economic growth. This judgment is realistic, and hard headed, because national electrical industries provide key products for domestic consumption by the private sector of each country and also, for government-owned and publicly operated electric utilities, transportation and communications systems, basic manufacturing industries, housing and

construction, and medical centers and other vital social services. Moreover, in a number of countries, in addition to supplying home-market demand, electrical manufacturing industries are major exporters. As a result, the worldwide trade in electrical goods is among the biggest of the various categories of manufacturers.

We believe that U.S. trade policy should address the particular structures and patterns of international electrical equipment trade as being separate and distinct from other categories of trade, just as it should address other industries such as textiles or steel or shoes as being separate and distinct. We believe that U.S. trade officials should exercise their negotiating authority within a series of discrete industry parameters. For electrical product manufacturing this would mean that tariff reductions and elimination of non-tariff barriers are significant only insofar as they apply to the international trade of electrical products. The U.S. trade objectives, with respect to our particular articles of commerce, must be reciprocal access to international electrical markets and uniform ground rules of competition in those markets.

What we are urging is a departure from the previous criteria and methodology of international trade negotiations. The balancing of volumes of trade that has characterized all previous rounds of negotiations up through the Kennedy Round is inequitable and inefficient. It means that U.S. negotiators can—indeed must—dispense rough justice in the name of the overall U.S. economy. They can, under this methodology, make the judgment that $100 million worth of soybean concessions to the U.S. is worth $100 million worth of electrical product concessions to the Common Market. On this theoretical basis the U.S. always appears to come out even as long as the aggregate dollar volume of concessions is not disproportionately against us.

The well-being of the complex and essential U.S. electrical manufacturing industry should not be subjected to negotiations which are lacking in fundamental economic due process. Not only is it unfair to our industry; it is erosive of the U.S. economy because it subordinates trade strengths to raw trade volumes. $100 million of trade of soybeans or hoola hoops may not be at all the same in terms of national economic strength, or of industrial base or growth potential as a $100 million of high technology electrical equipment.

Thus, we are advocating that U.S. trade officials be instructed by statutory guidelines or actual criteria to adopt an "industry sector" approach. They would, in effect, negotiate to the objective—in our case—of achieving reciprocity in the international trade of significant categories of electrical products. Their fundamental question would be: are the costs of and barriers to entry of U.S. relevant types of electrical products in foreign markets no higher or greater than the costs of and barriers to entry of foreign electrical products into the U.S.? On this basis, tariffs (to the extent they still may be a modest import barrier in this post-Kennedy-Round era) and non-tariff barriers can be negotiated realistically and effectively in the interests of expanded, liberated international trade. Each party to the negotiation is then put to the test: do you really want genuine inernational trade in electrical products? Are you willing to compete head to head? Or do you really want to perpetuate an imbalance in your favor, by offering to give up something less important to you (although it may be measured in the same aggregate dollar value)?

That such imbalance presently exists in certain categories of electrical trade there can be no doubt. The Chairman of this Committee stated it succinctly when the Trade Act of 1970 was before the House of Representatives:[1]

"Testimony received by the Committee on Ways and Means indicates that most nationalized industries and Government-controlled utilities of other industrial nations procure their equipment almost exclusively from their own respective domestic sources. The most notable example of such buy-national procurement policies and practices involves large electrical equipment—turbine generators, power transformers, and power circuit breakers which are the backbone of electrical power systems. Such exclusionary practices by foreign governments effectively prevent U.S.-made products from competing in those foreign markets. At the same time, industries in these countries, secure in their insulated home markets, are free to enter the U.S. market. They are even encouraged by Federal procurement policy to sell to nonmilitary Federal Government agencies in the United States, subject only to the modest, and clearly stated, Buy American Act differential. Such practices not only involve hundreds of mil-

[1] Congressional Record, 89th Congress, 2nd Session (Nov. 18, 1970), at page H10486.

lions of dollars of high-technology products essential to this country's electrical energy systems, they result in one-way trade antithetical to the basic idea of reciprocity in foreign trade relations. U.S. manufacturers of such equipment should be permitted to compete in such foreign markets in the same manner as foreign manufacturers are permitted to compete here."

While Chairman Mills' remarks in 1970 were directed toward products utilized in electrical energy systems, the discriminating practices of foreign countries are even more pervasive. Other sectors of the U.S. electrical industry have demonstrated export capability in serving the needs of transportation and communications systems, housing and public buildings, as well as providing kinetic power and electrical control in such manufacturing processes as steel-making, cement production and others. Where such industries are nationalized or otherwise subject to government control, our potential exports are largely barred from competing against the goods of home-market producers.

The prevalence of such massive buy-national non-tariff barriers has been well-documented in Congressional and Executive hearings and in international consultations. But it is by no means the only major distortion to trade that affects the domestic and world-wide competitive positions of the American electrical industry. Because most electrical manufacturing involves the creation of substantial added-value in the production of finished goods and because world-wide demand is so great, the electrical industries of many countries have become especially attractive to national governments as export earners—and, thus, as beneficiaries of Government-supported export incentives and assistance. These aids and incentives, available to producers in some European countries and Japan in turn, have the effect of distorting (a) the international (as contrasted to domestic) pricing of electrical articles exported from those countries or (b) the costs associated with manufacturing in their country or origin, or both.

Of the numerous distortative export aids and incentives provided by some foreign governments to their domestic electrical manufacturing industries, NEMA cites four generic types as actual and potential distorters to fair international competition in the trade of electrical products:

1. Concessionary financing to import customers—i.e., contingent upon the sale, the provision of larger-than-normal loans for repayment on longer-than-usual terms at less-than-normal interest rates—by instrumentalities of the government of the exporting country. When utilized for purposes of governmental aid to less developed countries, this practice is unobjectionable. Moreover such financing may be a legitimate part of the trade between advanced nations—*but only when carried out in strict accordance with the Berne rules that govern such transactions.* In the experience of NEMA members, however, competitive producer countries of electrical goods have regularly violated the international rules of concessionary export financing in regard to both third-country markets and sales into the United States. Under current conditions of international enforcement, it would appear that the violator suffers no stronger penalty than receipt of a complaint from an offended government.

2. More difficult to detect but almost equally pervasive is the practice of making available concessionary financial funds through governmental instrumentalities to exporting manufacturers upon receipt of an export order. The distortion to competition—and thus trade—is particularly severe in instances (a) of products which require a comparatively long manufacturing cycle between date of order and date of delivery, and (b) of long-term, high-value contracts which call for the staged delivery of goods over a period of several years. U.S. electrical manufacturers do not have the availability of such concessionary funding for either domestic orders or export opportunities. But they face precisely this form of competition—which affords significant price reductions—from offshore producers in most European countries and Japan.

3. Still another form of concessionary financing springs from the practice of governments in some advanced countries to provide geographic locational incentives to new or expanding manufacturing facilities, and similar types of assistance to preferred industries, regardless of location. These aids and incentives may involve some combination of low-cost loans, outright grants, tax abatements, and highly accelerated depreciation or cost recovery mechanisms. Their effect is artificially to reduced production costs and—in some competitive circumstances—prices below normal levels. From NEMA's standpoint, such practices are less objectionable when the output from facilities so favored is directed wholly toward home market consumption. But, for many products of the electrical industry, the economies of scale necessary to efficient manufacturing require

an output greater than the demand of the domestic market. The export market thus becomes an inevitable target for such semi-subsidized production.

4. Of a different nature but having the effect of an incentive is the rebate or remission of high-rate indirect taxes *paid during the course of manufacture* on export goods. NEMA is well aware of the theoretical debate in respect to "trade neutrality" that surrounds this practice. We believe that defenders of the practice overlook two basic considerations involving the realities of taxation—namely, first, that all taxes paid (whether called indirect or direct) during the manufacturing and distribution of goods are passed on to the ultimate purchasers of such goods, and, second, that selective remission of such tax between different classes of purchasers of identical goods (such as importers v. domestic buyers) creates a condition of inequity by virtue of price differentials. A rebate or remittal of indirect tax such as value added tax, on exported products becomes, in effect, a subsidy of those products—as it happens, a "legal" subsidy under the present GATT rules. But such legality in no way eliminates the condition of inequity. Nor does it deal constructively with the competitive problem whereby manufacturers of identical goods in the importing country are placed at a persistent disadvantage because their own domestic production must bear a full load of the applicable and unrebatable national taxation.[2] This problem, we realize, is beset by complexities. Yet, the spread of high-rate rebatable indirect taxation in Europe is also a reality and a source of inequity that grows as rapidly as the growth of the U.S. European trade. Thus, NEMA believes that the problem itself is in ever more urgent need of resolution, and must accordingly not be considered immune to needed change. Our industry, then, is confronted by significant distortions to international trade that result from the unfair protectionism of non-tariff barriers and the export incentives which thwart carefully negotiated multilateral tariff agreements and the most-favored-nation principle. We should note, in this connection, that the U.S. government has initiated some effort to overcome at least one of these distortions—but so far without significant results.

In 1968, approximately one year after the Kennedy Round negotiations were concluded, U.S. trade authorities became convinced—partly, we believe, as a result of NEMA's representations—that restrictive nationalistic procurement in heavy electrical equipment had created clear conditions of unfairmess in international trade. Seeking correction, they initiated Working Party discussions within the Organization for Economic Cooperation and Development (OECD). At the U.S. negotiator's request, NEMA submitted a proposed international code for electrical equipment procurement by electric utilities under the ownership or control of national governments. The code thus proposed was modeled upon the U.S. Federal Procurement Regulations. Today, in 1973, the negotiations continue at a desultory pace. Meanwhile the one way street in the trade of heavy electrical equipment continues, to the detriment of the U.S. industry.

We believe it is imperative that the foregoing competitive imbalances and trade distortions that beset our industry be dealt with on their own in what would be, in effect, a separate negotiation. Other industries similarly disadvantaged should receive this same separate attention.

Within that context of distinct "sector" negotiations we make three procedural suggestions:

1. NEMA believes that the opportunities for legitimately interested *non-governmental* partics to be heard during the course of trade negotiations is thoroughly inadequate. The requested five-year temporary negotiating authority—while probably necessary to the task—is a long time, long enough for international economic trends to turn precipitously and for competitive conditions and comparative advantages to be altered drastically. Our past experience has taught us that, no matter how well informed U.S. trade negotiators might be at the start of a protracted period, they may well become progressively detached from the trade needs and urgencies of a complex industry as time passes and as they lose proximity to primary, authoritative sources of factually current information and interpretation of trends.

We note that the procedures set forth in Sections 111 to 114, inclusive, appear to limit public hearings and non-governmental advice to the *pre-negotiation* phrases of the trade agreements process. Such limitation on the voices of those legitimately concerned in the outcome of the negotiations we suggest, does not accord with the best interests of a successful negotiation.

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[2] In the theory of the present GATT rule, a country that chose to rely primarily on export-rebatable indirect taxation for nearly all of its national tax revenues could thereby unburden its export goods of all tax costs—thereby disadvantaging every one if its trading partners who did not do the same.

NEMA therefore proposes that Title I be amended to require that the President's negotiators consult regularly and systematically, throughout the duration of their negotiating authority, with designated representatives of industry, labor, agriculture and the general public who have legitimate interest in each specific negotiation. Such consultation should go to the substance of these negotiations and, we believe, should be mandatory. Because of the requirements for confidentiality and flexibility in reporting and discussion during such consultations, we recommend further that the meetings above provided be exempt from the requirements contained in Section 10(a) of the Federal Advisory Committee Act and such other law requiring open hearings, public disclosure and open participation. In protection of the public interest, we suggest the keeping of detailed minutes of such meetings and their availability for scrutiny by proper legal authority.

2. Preferably by amendment of Section 103. "Nontariff Barriers to Trade," but at a minimum in the Committee's report, we urge that the scope of Presidential authority and the task of the negotiators be declared specifically to include negotiation for the purpose of reducing, eliminating or harmonizing government-supported export incentives, as well as non-tariff barriers. We cannot exaggerate the importance of these needed corrections in international trading rules. Embodiment of such authority in the law or Congressional reports will give clear declaration of the U.S. intent to deal firmly with questionable trade practices, and thereby give greater impetus for the exercise of the President's retaliatory powers of Section 301 and application of the countervailing duty statute under Section 330.

3. In light of the relatively greater impact of non-tariff distortions on the flows of international trade, we believe that negotiating priority should be placed on concluding meaningful agreements covering non-tariff barriers and export incentives.

II. SAFEGUARDS

Our national need for overcoming the severe imbalance of trade and trade unfairness leads NEMA to commend the general purposes of Title II and III of the Bill—respectively, "Relief from Disruption Caused by Fair Competition" and "Relief from Unfair Trade Practices." Furthermore, we suggest many of the specific proposals under these Titles.

With the likelihood of continued tariff reduction and with trade flows distorted by non-tariff barriers and export incentives, NEMA welcomes the new criterion for import relief in Sec. 201 which proposes that the U.S. Tariff Commission determine whether or not increased quantities of competitive imports may be the *primary cause* of serious injury to a domestic industry. The present requirement that the major cause of increased imports be shown to result from a prior trade concession may have been appropriate when U.S. foreign trade was much smaller and less important to the national economy and individual manufacturing industries. Those criteria are overly rigid for dealing with problems we are now confronting.

Had the proposed criterion of "primary cause" been operative during the last decade, we believe that at least one of our very important electrical industries—the manufacturing of high voltage insulators—could have better survived the problems of cyclical variation of demand, underutilized production capacity, and continued need for research and development which characterize such a business.

Briefly stated, a sudden upsurge of demand for insulators in the early Sixties brought on a flood of relatively low-priced imports at a time when the prior poor economic conditions in the industry eliminated incentives for rapid expansion of manufacturing capacity. The continued prevalence of low prices later in the Sixties also precluded sufficient subsequent investment in added capacity and new research and development of insulators. Imports continued to gain an increased share of the U.S. market even after demand slackened and domestic facilities were partly idled. Only recently, with the dollar devaluations of the Seventies, have imports begun to decrease and the domestic industry to recover.

While this may not be considered a classic case in market disruption we believe that the insulator industry's problems stemmed directly and primarily from increased imports of high voltage insulators. Under the existing criteria, those problems were hardly attributable to tariff concessions but U.S. members of the industry believe that imports were the "major" cause. It seems likely, however, that increased imports could have been demonstrated to be a primary cause of the industry's problem, and thereby, to have warranted appropriate relief had the proposed criteria been in effect. The result would have been, in our opinion, a much healthier industry with stronger export potential, higher employment and better profitability.

Market disruption.—The high voltage insulator situation just described and the problems of other electrical products such as magnet wire have led NEMA to examine carefully the definition of market disruption as set forth in paragraph (f) (2) of Sec. 201, which reads:

"For the purposes of this section, a condition of market disruption shall be found to exist whenever a showing has been made that imports of a like or directly competitive article are substantial, that they are increasing rapidly both absolutely and as a proportion of total domestic consumption, and that they are offered at prices substantially below those of comparable domestic articles."

NEMA is concerned that the criterial test of all three showings is too stringent for application to those products which serve markets that are characterized by either (a) long-term cyclical downswings in demand, or (b) an absolute decline in demand, however slow. In both situations, it is readily conceivable—and has, in fact, happened—that the industry can be injured by imports that are themselves declining in quantity while increasing as a proportion of total domestic consumption. Moreover, the proposed requirement that market disruption be determined on the basis of "rapid" increase is, we suggest, likely to be a matter of routine decision by the Tariff Commission and to have differing relevancies of application from one industry to another.

Accordingly, NEMA recommends that the word "rapidly" be deleted from the above referenced paragraph of the Bill and, further, that an additional sentence be appended to the paragraph, as follows:

"Furthermore, in the instances where domestic consumption of articles is declining, a condition of market disruption shall be found to exist whenever a showing has been made that imports of a like or directly competitive article are substantial, that they are increasing absolutely or as a proportion of total domestic consumption, and that they are offered at prices substantially below those of comparable domestic articles."

III. UNFAIR TADE PRACTICES

NEMA generally supports the Title III amendments of existing U.S. law to strengthen and broaden the remedies available to U.S. industry to meet various forms of unfair foreign competition. We believe these amendments are necessary to permit domestic producers, who are injured or disadvantaged by unfair foreign trade practices and restrictions effectively to resort to self-help actions; and these actions should be available whether or not the U.S. is able to negotiate the reduction or elimination of the non-tariff barriers and foreign export incentives cited earlier in our statement.

Of the various statutes amended by Title III of H.R. 6767 we consider the amendments to Section 252 of the Trade Expansion Act as being the most important. We have four comments about proposed Section 301:

1. NEMA endorses giving the U.S. industrial sector the same protection as the U.S. agricultural sector against foreign import restrictions (although we must note that the word "shall" in existing section 252 (a) and (b) of the Trade Expansion Act is replaced by the word "may" in proposed Section 301(a).

2. We support extending the reach of the legislation to foreign government subsidies of exports to third country markets.

3. We note that the term "tolerance of international cartels" in existing Section 252(b)(2) of the Act has been dropped from proposed Section 301. We recommend reinsertion of that test.

4. We recommend that the Committee be satisfied that the meaning and effect of the key statutory words "unjustifiable" and "unreasonable," as they relate to foreign trade restrictions and practices, are thoroughly understood and agreed upon. The section-by-section analysis that accompanies H.R. 6767 essentially defines those words within the context of the obligations of signatory countries to the GATT. The GATT is sufficiently ambiguous and riddled with exceptions—notably in the area of government procurement—that we are skeptical about reliance on GATT interpretations and U.S. commitments thereunder. The Congress should decide and clearly state its intent of what an unjustifiable or unreasonable restriction is within the meaning of U.S. trade law and policy.

IV. INTERNATIONAL TRADE MANAGEMENT: PERMANENT AUTHORITIES

In NEMA's view, many of the authorities requested under Title IV are necessary and vital to an orderly "housekeeping" in a world of expanding trade.

Other proposed sections, notably those concerned with balance of payments (Sec. 401) and the restraint of inflation (Sec. 405), are not so readily understandable. Therefore, we believe that Congress should—establish legislative oversight of the exercise of these authorities. One such approach, which NEMA favors, would be the establishment of a permanent Joint Committee on trade and related international economic matters. Such a committee could coordinate foreign trade issues that are presently dispersed through various Committees and Subcommittees in the House of Representatives and Senate. Furthermore, the ability of a Joint Committee to exercise full-time oversight in this extremely important field of policy could do much to relieve existing Committees of a profound but necessarily part-time requirement to monitor and study the continuously changing international economic scene and the responsive conduct of U.S. policy.

The request for permanent authority contained in Section 403, "Renegotiation of Duties," is, we believe, desirable and necessary. Its procedural exercise, however, should not differ from that which Congress requires of the President in its granting of temporary authorities for tariff negotiations, modifications, or concessions. Thus, NEMA urges that, in pursuance of renegotiations under this section, Congress require the same consultative mechanism and procedures between U.S. negotiators and legitimately interested parties recommended earlier in this statement in conjunction with amendment to Sections 111 to 114, inclusive.

V. GENERAL PROVISIONS: SIMPLIFICATIONS AND MODIFICATION OF THE TARIFF SCHEDULES

The Tariff Commission and the Bureau of Customs have been responsive to modifications in the tariff schedules when requested to provide more meaningful information on imports; and more modifications are needed.

Several tariff classifications were so broad as to provide no meaningful import data on particular products. At the request of our industry, the classification 685.9000. Switchboards, Panels, etc., for making, connecting, or breaking electrical circuits was recently broken down into eleven categories.

Until further detail began to be obtained under this classification, none of the producing companies were in a position to know, from government data, the value of imports of their products. The broken-down sub-categories will help to overcome the inadequate data problem. Other product areas which appear to need similar improvements are electrical wire and cable and turbine generators.

We are somewhat concerned about the "Simplification" objectives of this Section, particularly if such simplification results in further groupings of separate and distinct industries or product categories. The objective should be in many cases to make specific delineation of products.

We feel consideration should be given to import classification breakdowns that correspond, insofar as practical, to our government export classifications. This would result in more meaningful detail (e.g., in the government classifications of interest to NEMA, there are 284 export categories vs. 126 import categories) and also would permit more direct and precise comparisons to be made from export-import data on generally similar products.

We hope these re-classifications can begin as soon as possible. We also hope they can be completed prior to any negotiations on specific articles, so as to provide the most meaningful and precise data for use by our negotiators.

The CHAIRMAN. Thank you, Mr. Falk. Are there any questions? Mr. Burke.

Mr. BURKE. I just wish to commend Mr. Falk for zeroing in on a real problem on the part of the negotiators who negotiate sometimes without the expertise needed in many of these areas. I believe you have made a good recommendation here.

The CHAIRMAN. Mr. Schneebeli.

Mr. SCHNEEBELI. Mr. Falk, with respect to designated representatives on negotiating councils, what purpose would they serve? Would it be advisory? Would they have any influence on the outcome of the consultations? Just what authority, if any, should the designated representatives have in the prenegotiating process?

Mr. FALK. I would suggest that as a minimum, they may be utilized to inform, and this matter of information in keeping our negotiators up to date in the system cannot be minimized as far as importance goes.

As an illustration of what I mean, our association spent considerable effort and time in 1964 informing our negotiators as to the status of this in the electrical manufacturing industry. However, we tended to lose contact despite the fact that we had available representation as the negotiations got under way some 2 or 3 years later. Some of the facts in the situation had changed in those 2 or 3 years. So that information is very vital.

Secondly, I think advice and, perhaps more importantly, evaluation is important. Particularly when you are dealing with nontariff barriers, I think you are getting into an area where you need expert advice on what the realities are of a nontariff barrier.

It is one thing to look at a tariff barrier and to use a computer to make some calculations for you as to the effect of reducing a tariff but when we talk about complex nontariff barriers, I think you need the advice of industry as to what the effect will be of eliminating or reducing such barriers. As to the ultimate decision-making process, it seems to me that this has to be the responsibility of the negotiating team.

Mr. SCHNEEBELI. What can we do to prevent the recurrence of what happened in 1964?

Mr. FALK. I think as a minimum you can, either in your legislative language or in your committee report, instruct our negotiators to adhere to a process somewhat along the lines that we have mentioned. For example, I think we would be in a position to name some official industry experts, if you will, and I am sure others concerned with the electrical industry would be in the same position, to institute a process where these people continue to work with and to effectuate a close communication with the negotiating team.

Mr. SCHNEEBELI. Other people who have come before us have stressed the same point, that it is not only desirable but necessary to have consultations with industry experts. Who would determine membership on these consultant teams?

Mr. FALK. Well, I would imagine that one possible process is to, by the legislative language, instruct the negotiating parties representing the United States to request of interested parties who are interested in a particular sector to designate some individuals at no expense to the Government who would be available and willing to serve in close consultation with the negotiators.

Mr. SCHNEEBELI. You have stressed the importance of prenegotiation consultations along this line. Would you have these consultants also available and present at the negotiating sessions?

Mr. FALK. Absolutely, sir.

Mr. SCHNEEBELI. Thank you very much, Mr. Chairman.

The CHAIRMAN. Are there any further questions? Mr. Gibbons.

Mr. GIBBONS. I hate to use this word, but as I understand, you are sort of suggesting that we relax our laws and allow industry to sort of cartelize these negotiations. As I understand it, you are trying to suggest that we relax some of our laws to allow our industry—and I hate to use the word—to cartelize—and that word has other connotations—to negotiate as industries really having sort of a semiofficial

function, being present when negotiation takes place and so forth. Is that right?

Mr. FALK. No, sir. I did not suggest either the establishment of a cartel or violation of any laws.

Mr. GIBBONS. I can't think of a better word.

Mr. FALK. I am not suggesting that the industry representatives be party to the actual negotiations.

Mr. GIBBONS. I thought you just said that to Mr. Schneebeli.

Mr. FALK. What I suggested was that they be available to inform, advise, or consult with our negotiators but not to sit in the actual negotiations with other nations. I recognize the difficulties in going that route.

Mr. GIBBONS. In your suggestion about reciprocity, you mean electrical goods, agricultural goods for agricultural goods, not crossing over agricultural goods for electrical goods, is that right?

Mr. FALK. That is essentially correct, sir.

Mr. GIBBONS. In other words, we would have to divide our position up by the whole gamut of our economic system and then negotiate back and forth on each one of these particular subcompartments; is that what you are suggesting?

Mr. FALK. Well, yes; I am essentially suggesting taking major segments of our economy, and I don't see any way of avoiding this, whether we go the route I suggested or the previous route, because one has to make certain decisions on each sector, if you will.

What I am suggesting is that, within a given sector, the negotiations take place within that sector if we are really seeking free and fair competition. It is difficult to do this when you have these trade-offs between differing industries.

Mr. GIBBONS. As I say, between agriculture and the electrical business; is that right? I am not arguing with you. I am just trying to get your idea as to how it ought to be done because I know you have had experience in this field.

Mr. FALK. I don't want to speak for agriculture.

Mr. GIBBONS. If every segment of American industry is going to be paired off exactly opposite with the same segment of foreign industry, then you are finally going to get where you have this agriculture against agriculture, so that I guess you are, in effect, speaking for agriculture, but maybe your proposal is good. Maybe we ought to do something about our very restrictive agricultural practices on a reciprocal basis.

Mr. FALK. I am not that familiar with all other industries. There may be a number of other industries where this sector approach, for whatever the reasons are, doesn't make sense. We feel is makes sense in the treatment of problems that we face in our particular industry.

Mr. GIBBONS. Let me ask you some questions that often puzzle me and which may be peripheral to this problem. To what extent is the fact that all Europeans are on a different current system than we are a nontariff barrier as far as U.S. electrical products are concerned? They are on a 250 household system with 50 instead of 60 cycles, and nothing that anybody takes overseas manufactured here for the domestic market ever works over there and vice versa. Are you suggesting that we ought to get together on that nontariff barrier?

Mr. FALK. I previously testified before the Senate and before a special task force of a Government agency dealing with the concept, and we have supported the concept of some international codes on standards. We see a lot of sense in equating some of the technically different requirements.

Mr. GIBBONS. Are these things really big barriers to the sale of American-produced electronic products, though?

Mr. FALK. I am not going to speak toward electronic products, sir.

Mr. GIBBONS. Let us talk about a light bulb.

Mr. FALK. That is electrical.

Mr. GIBBONS. Or a clock. A 60-cycle clock won't work on a 50-cycle current over there even if you can step the current down. Is this a real problem?

Mr. FALK. Yes. Mentioning light bulbs, I know of a situation that occurred several years ago where the Europeans were ingenious enough to devise a standard for light bulbs which permitted their light bulb to be used in the European systems as well as in American sockets, whereas the converse was not true. American light bulbs could not be used in European sockets. We solved that problem by adopting an international standard.

There are certain products, certain wiring devices, and all of you who have traveled in Europe have experienced this problem of certain requirements that change from country to country. Wiring devices has been an area where it has been rather difficult for us to export because there is no national market of any substance compared to the U.S. market, which has one system.

Mr. GIBBONS. Who has the most efficient system—we or the Europeans?

Mr. FALK. It depends on how you define "efficiency."

Mr. GIBBONS. Which costs less money to transmit a unit of energy from a generating plant to where it turns into work?

Mr. FALK. I don't feel I am really qualified to give you an objective opinion on that. I think that would require a study beginning with the fuel that is fed into the turbine generator and going all the way up.

Mr. GIBBONS. I am talking about transmitting a unit of electrical energy. Who has technically the best system? Is it ours or theirs? If we have to convert, which way should we convert?

Mr. FALK. I think in terms of the high technology areas, our indications are that the Europeans are tending to conform to U.S. practices. Whether that means we are most efficient or not, I really don't know.

Mr. GIBBONS. Will converting to the metric system help us competitively?

Mr. FALK. We have made a study of this within our association. It differs from industry to industry. I think that in a technologically oriented industry such as ours, we see, if you will, the inevitable conversion taking place, and I think the discussion really leads to such questions as timing, whether 10 years is proper or 5 or 20 or what have you. But it is a shoe that will inevitably drop, and I think some of our more astute companies are starting to take steps in that direction.

Mr. GIBBONS. Thank you, sir.

The CHAIRMAN. Mr. Duncan will inquire.

Mr. DUNCAN. Thank you, Mr. Chairman. Mr. Falk, I take it that you think that we should get into a position to tell your trading partners that trade should be fair, that it should be on a two-way street? Do you think if we demanded free trade, that it would cause a trade war?

Mr. FALK. Well, I think it would depend on the nature of the demand. I think that our trading partners, if they are behaving in good faith under the rules of the GATT and under whatever agreements we work under, will recognize the legitimacy of some of our requests just as we, I am sure, recognize the legitimacy of some of their requests as they look at the U. S. markets.

Mr. DUNCAN. You would think they would take a good look at the vast markets of this country.

Mr. FALK. I would tend to see that occurring, sir.

Mr. DUNCAN. Do you think if the President doesn't get the right to negotiate and the countries don't get together and begin to sort out these matters, that protectionist conditions are going to get worse?

Mr. FALK. I would tend to see that occurring, sir.

Mr. DUNCAN. You indicate, in your statement, that at the close of the Kennedy round, U.S. manufacturers were effectively foreclosed from selling products in Western Europe and in Japan. Could you give us some examples of that?

Mr. FALK. Well, we made a study. Firstly, to give you some examples in trade figures, if you examine our exports particularly of heavy electrical apparatus such as turbine generators, switch gear equipment, large power transformers, you will find virtually no exports to those countries who have their home producers of similar products.

Now, as to specific examples, we made a study—I believe we have filed either the entire substance of the study or portions of it with this committee—as to the practice in Great Britain in the utilization and purchase of large power transformers, and quite frankly we found a situation where the Central Electrical Generating Board—which, I believe, acts for something like 95 percent of the electric utility system in Great Britain—had a clear written policy for a number of years to purchase only from British suppliers.

Mr. DUNCAN. Regardless of the price or anything else?

Mr. FALK. Absolutely, sir.

Mr. DUNCAN. What is your experience in Germany?

Mr. FALK. Well, I think the two nations that stand out most in terms of restrictive nationalistic procurement practices are Great Britain and France and, to a lesser degree, other nations in Western Europe.

Mr. DUNCAN. Do you have some countries where trade barriers mutually exist against the interests of the United States.

Mr. FALK. If I understand your question, sir, you are saying: where two countries have worked out a deal?

Mr. DUNCAN. Yes, sir.

Mr. FALK. We see one coming up that we are concerned about. I know the electronics industry has had first exposure to this, but we see one coming up that will affect the electrical industry. There appears to be an agreement being worked out in Europe among three principal electrical powers—namely, Britain, France, and Germany—to take a whole series of products and to develop a system whereby each nation

not only works to the same standard but allows for the mutual reciprocity of the acceptance of the products of the testing agencies in each country.

In other words, the Germans, as a result of this pact, would accept the seal of approval by a British laboratory, by a French laboratory, and vice versa, on an electrical product.

Our U.S. team has made some effort to be part of that action, and the results are still questionable.

Mr. DUNCAN. Thank you, sir. Thank you, Mr. Chairman.

The CHAIRMAN. Are there any further questions? Mr. Karth will inquire.

Mr. KARTH. Thank you, Mr. Chairman. Mr. Falk, I think consulting with you and exchanging ideas between you and the Tariff Commission or the U.S. negotiators is one thing, but obviously, according to your own testimony, you have already had that and the points you made to them have resulted in desultory trade negotiations insofar as your own industry is concerned?

Mr. FALK. Yes, but if I may—

Mr. KARTH. So I doubt seriously that your suggestions are going to have the effect that you think they will have for many reasons but primarily I think because we are so busily engaged in trying to be the world protector that the State Department plays a very important part in our negotiations insofar as it relates to trade, and we are so busy trying to keep those people friendly to us, to fight communism, I guess, or something, that we always lose the battle in trade negotiations.

So that I am beginning to think that maybe what the Congress ought to do is write the trade bill and to say very clearly and very definitively in that bill that the only alternative that our negotiators would have is to make whatever adjustments necessary, using your language, in export incentives, nontariff barriers, duties, surcharges, and so forth only if and when our trading partners had made those changes.

That is, we write the trade law and say that in this law there is going to be a total reciprocity with no exceptions except that our negotiators would be able to dissolve any of our surcharges, any of our nontariff barriers, any of our export incentives only if and when and after our trading partners had previously done so.

Then we write the trade bill. Then our negotiators have something to negotiate, and that is so-called equal trade or fair trade or free trade, depending upon what connotation you want to put on it. But we, in effect, would write the trade bill.

It seems to me that that accomplishes what you are suggesting in a very positive way and does not leave it up to the State Department to again negotiate away whatever advantages we might have. What do you think of that suggestion?

Mr. FALK. I think you have made a very eloquent statement, and I say Amen.

Mr. KARTH. Thank you, Mr. Chairman.

Mr. FALK. Mr. Chairman, I think I should make a correction of a possible misunderstanding because of something that Mr. Karth referred to. We have found excellent success since 1968 in convincing our own negotiators of the value of our position and the need for a new agreement on nationalistic procurement policies. The problem is

their inability thus far to convince our trading partners abroad. But we have made good progress in close consultations.

Mr. KARTH. That is why I think, if you don't mind my saying so, that we ought to write the trade bill and give them only one alternative, and that is reciprocity.

The CHAIRMAN. Are there any further questions of Mr. Falk?

If not, we thank you very much.

Mr. FALK. I just want to clarify a point which Mr. Crolius reminded me of. Let there be no misunderstanding. I think I responded unclearly to a question or comment of yours, Mr. Schneebeli. We are not suggesting that industry people sit in at the actual negotiations.

Mr. SCHNEEBELI. You would just have them available for advice and consultation? Thank you.

The CHAIRMAN. Thank you, Mr. Falk. We appreciate your testimony; we appreciate your coming.

Mr. FALK. Thank you.

[The following letter was subsequently received for inclusion in the record:]

NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION,
New York, N.Y., June 11, 1973.

Hon. WILBUR D. MILLS,
Chairman, Committee on Ways and Means,
House of Representatives, U.S.,
Washington, D.C.

DEAR MR. MILLS: When I testified before the Ways and Means Committee on May 30, 1973, I was asked some questions concerning impediments to international trade in electrical products. Specifically, Mr. Gibbons inquired, "To what extent is the fact, that all Europeans are on a different current system than we are, a non-tariff barrier as far as U.S. electrical products are concerned?" The discussion then continued with respect to the differences in voltage, 50 cycle frequency versus 60 cycles, configuration of sockets and wiring devices, etc.

I think it might be helpful in understanding this industry's most significant trade problem to emphasize that technical aspects, such as differences in voltage, cycles of current, and configurations of hardware, are by no means the principal impediments to foreign trade for the U.S. industry. The important problem, which we have referred to and described many times in recent years, is that the officials and agencies which administer the nationalized electrical systems and the quasi-public and investor-owned utilities in many European countries and Japan simply refuse to buy large electrical equipment manufactured in the United States.

American manufacturers can design and manufacture large steam turbine generators, large transformers, large power circuit breakers and other equipment which will operate at 50 cycles and at various voltage levels. On the other hand, European manufacturers who are capable of manufacturing generators, transformers and related equipment for use in Europe can turn out 60 cycle equipment, with appropriate electrical characteristics, for use in the electric utility systems of the United States. Japanese electrical equipment companies also can manufacture products for use in any electrical system.

Thus the impediment to international trade which most concerns U.S. manufacturers of large electrical equipment is not attributable to the technical differences in electrical systems.

The major problem results from firmly entrenched formal and informal procurement policies and practices which are either imposed by or fully sanctioned by the governments of European countries and Japan. Under such policies and practices, electric utilities in the industrialized countries outside the United States buy large electrical equipment only from manufacturers in their own country. Yet the manufacturers in European countries and Japan insist upon the right to sell such equipment to utilities in the United States, including those owned by the U.S. Government, such as the Tennessee Valley Authority, Bonneville Power Administration, U.S. Bureau of Reclamation and those owned by private investors and local public entities. Foreign governments support these export strategies of their manufacturers. (See pages 8 thru 11 of our written

statement.) Our government, by either deliberate policy or inaction, has permitted one-way trade in large electrical equipment to continue for many years.

Prior to the Kennedy Round of trade negotiations, representatives of our industry urged U.S. negotiators not to support the continuation of such one-way trade. We requested that nothing be agreed to by the United States which would make it easier or cheaper for foreign-made large electrical equipment to enter the United States, *unless* and *until* American manufacturers were given the same ease of access to the markets for similar equipment in Europe and Japan. Our plea was either rejected or ignored. The U.S. tariff on nearly every electrical product was reduced the full 50% permitted by the 1962 Act, while virtually nothing was done to open up European and Japanese markets to U.S. exports of similar equipment. Highly restrictive non-tariff barriers such as nationalistic purchasing policies still prevail against us abroad.

In the hope of getting relief from trade practices and policies that discriminate against us we are asking that electrical equipment be given consideration as an industry in the forthcoming trade negotiations. We are requesting that the economic welfare of our industry not be sacrificed to enhance the welfare of some other industry or of agricultural producers.

We are not asking for protection in the form of high tariffs or restrictive Buy American policies. We are asking for equal treatment in world markets. We believe we can export large volumes of electrical equipment from the United States if all countries will observe the same rules of international trade.

In short, we seek reciprocity, and we solicit the help of our Government to this end.

We are encouraged that the Ways and Means Committee has already recognized this fundamental problem of our industry. As Chairman Mills said three years ago, at the time the House was considering the Trade Act of 1970:

"Testimony received by the Committee on Ways and Means indicates that most nationalized industries and Government-controlled utilities of other industrial nations procure their equipment almost exclusively from their own respective domestic sources.

"The most notable example of such buy-national procurement policies and practices involves large electrical equipment—turbine generators, power transformers, and power circuit breakers which are the backbone of electrical power systems. Such exclusionary practices by foreign governments effectively prevent U.S. made products from competing in those foreign markets. At the same time, industries in these countries, secure in their insulated home markets, are free to enter the U.S. market. They are even encouraged by Federal procurement policy to sell to nonmilitary Federal Government agencies in the United States, subject only to the modest, and clearly stated, Buy American Act differential.

"Such practices not only involve hundreds of millions of dollars of high-technology products essential to this country's electrical energy systems, they result in one-way trade antithetical to the basic idea of reciprocity in foreign trade relations. U.S. manufacturers of such equipment should be permitted to compete in such foreign markets in the same manner as foreign manufacturers are permitted to compete here . . ." (Con. Rec. Nov. 18, 1970, p. H 10486)

We appreciate the Committee's renewed interest in this matter, as evidenced by the questions of several Members at the hearing on May 30. We will be grateful for your assistance in obtaining equality and reciprocity in trade policy as it affects the electrical equipment manufacturing industry.

Sincerely,

BERNARD H. FALK.

The CHAIRMAN. Our next witness is Mr. James P. Charles, president of the National Office Machine Dealers Association.

Mr. Charles, if you will identify yourself for the record, and identify those at the table with you, we will be glad to recognize you, sir.

STATEMENT OF JAMES P. CHARLES, PRESIDENT, NATIONAL OFFICE MACHINE DEALERS ASSOCIATION, ACCOMPANIED BY ROBERT WOLETZ, COCHAIRMAN, LEGISLATIVE COMMITTEE, AND MICHAEL P. DANIELS, COUNSEL

Mr. CHARLES. Mr. Chairman, members of the committee, my name is Jim Charles. I am president of the National Office Machine Dealers Association.

On my left I have Mr. Bob Woletz, a member of our Legislative Committee. On my right, Mr. Michael P. Daniels, our NOMDA counsel in Washington.

The CHAIRMAN. We are glad to have you with us this morning. You are recognized, Mr. Charles.

Mr. CHARLES. Thank you very kindly.

NOMDA is an organization representing approximately 10,000 office machine dealers through the United States. We are small businesses in size, selling and servicing a wide variety of products used in office, typewriters, adding machines, calculators, dictation machines, check writers, the whole gamut of those products.

The industry estimates that over 80 percent of the products sold and serviced by independent dealers are manufactured abroad. We therefore have a vital stake in the legislative proposals under consideration by this committee.

I might mention in the way of background that when I got out of college in 1950 I went to work for a manufacturer as a salesman and after a couple of years entered my own business in 1952 in Zanesville, Ohio. Perhaps also to give you a little bit of background in how the office machine dealer operates, by and large the typewriter is what you might call the nucleus of an office machine dealer's business in most instances. If he does a good job with a typewriter he has established his credibility and then, as he adds additional lines, say, copying equipment, dictation equipment, adding machines, calculators and so forth, he gives competition across a wide spectrum of the market.

We hope the committee will keep before it the importance of the distributive and service sectors of our economy as it considers this trade bill. I may mention some statistics here. Of the total nonagricultural employment in the United States of 74 million in March of this year, manufacture accounts for only 19.5 million or 26.3 percent. Wholesale and retail trade account for 15.9 million employees or 21.4 percent of the total employed. We estimate a total of 100,000 workers employed by office machine dealers. These workers and their families represent over 300,000 people.

We derived these figures, gentlemen, from an educational seminar, administrative management seminar called STEER in which we developed a profile of the office machine dealers, the dollar volume that this man does in his operation, the average income of employees and inventory and so forth so that we feel we have a pretty good grip on the statistics of our segment of the industry.

Not only do the wholesaling and retailing trades account for a significant portion of domestic employment but, as the figures will indicate, it is one of the fastest growing sectors, as are the service industries generally. I think that is fairly common knowledge.

Something that might be of interest to you people is that 10 years ago the average dealer had three employees and he did something in the neighborhood of $100,000 a year volume which is extremely small business and, with the help of imported products, has grown to a point where his average volume is in the range of $350,000 and he has 10 employees on the average.

It is no exaggeration to state that the independent office machine dealer owes his very existence to imports. Typically, the large office machine manufacturers in the United States are vertically integrated monopolies with their own sales and distribution outlets. Over the

years most have refused to sell through independent office machine dealers. Quite typically, in the years past, the independent office machine dealer was forced to sell only used machinery, and to make a substantial part of his living in repairing and servicing machines.

To give the committee a few examples of the dominant position occupied by the giants, I would say National Cash Register—NCR—accounts for approximately 70 percent of the U.S. cash register market and International Business Machines—IBM—has over 80 percent of the heavy duty office typewriter market. Another example is Xerox which totally dominates the commercial copying market.

IBM, NCR and Xerox have over the years flatly refused to market cash registers, electric typewriters and copiers, which should be the high volume items for office machine dealers, through independent dealers; 100 percent of NCR's new cash registers, IBM's new typewriters and Xerox products are sold through company owned branches. There are no dealers whatsoever in the spectrum of distribution.

It has only been in the last 5 years that the dealer has had a nonprinting calculator to sell to his customers as a new machine. Prior to that time back around 1965 the big three, Monroe, Friden, and Smith-Marchant did indeed dominate the calculator market and with the advent of imports it gave the 10,000 office machine dealers in the United States an opportunity to share in this market.

The availability of imports allowed the independent dealer to some extent to market new office machinery. This introduced a needed but still inadequate element of competition into the marketplace.

Imports have allowed our dealers to grow from establishments employing an average of four people and doing an average of about $100,000 annually to a present average of about 10 employees doing in excess of $300,000 per year. In other words, through imports, the average dealer has been able to triple his size.

I think it might be well to mention at this time that a lot of names with which the committee is familiar in the American office machine market such as Royal typewriter, Remington Rand, Underwood, are today produced abroad, not produced in the United States.

Not only have imports allowed this kind of growth among our member firms, but we would like to emphasize that the real beneficiaries have been the consumers of our products, as I mentioned before, no longer completely dependent on the few dominant American suppliers.

Something of interest in this area is that when I was going through this testimony it occurred to me that maybe a good case in point would be the adding machine. Ten years ago the average adding machine, which was a ten column capacity and automatic credit balance, which are necessary features in an office, sold for $414. Today that same adding machine with essentially the same features sells in the neighborhood of $209. So that despite all the inflation, the changes in the market, our consumers have been able to buy this type of product. It has resulted in significant benefits to the marketplace.

This committee recognized these facts when it reported the Revenue Act of 1971. It will be recalled that the act, which provided for the investment tax credit, generally did not make the credit available for imported items. The committee, however, enacted an exemption where the President found it in the public interest to waive the limitation.

You will recall that one of the situations envisioned by your committee was, "where the United States market for a particular type of item tends to a monopolistic one, that is, is dominated by one or two domestic producers." This exactly fits the electric typewriter, cash register and copying machine situations which we, in our testimony, had called to the attention of the committee.

It is for these reasons that we are concerned with any measure which would unjustifiably impose restrictions on imports of business machinery.

We note that the administration's proposed Trade Reform Act of 1973 provides, in section 202, Presidential Action After Investigations, that in determining whether to provide import relief, after a finding of injury in an escape clause proceeding, the President shall take into account: "the effect of import relief upon consumers, including the price and availability of the imported article and the like or directly competitive article produced in the United States, and upon competition in the domestic markets for such articles;" (section 202 (c) (3).

We believe that this provision should be approved by the Ways and Means Committee. In our opinion, however, it does not go far enough. We would strongly urge the committee to adopt a provision which would require the Tariff Commission, in an escape clause proceeding, to conduct its own investigation of the elements included within section 202(c) (3), to hear testimony, to make findings thereon, and include such findings, together with supporting data, in its report to the President in any escape clause investigation. We further believe that the bill should be amended in a manner forbidding the President to impose import restrictions when the Commission finds that such restrictions will "materially reduce competition in the U.S. market" for the product under investigation. Such a provision would reflect the thinking of the committee when it enacted the investment tax credit.

Turning to the escape clause itself, we believe that the administration's proposals have gone too far and have, in the "market disruption" concept, introduced an unnecessary, confusing and unfair element into Tariff Commission deliberations.

Under the administration's bill "market disruption" is deemed to exist under the following circumstances: (a) imports of a like or directly competitive article are substantial; (b) imports are increasing rapidly both absolutely and as a proportion of total domestic consumption, and (c) imports are offered at prices substantially below those of comparable domestic articles.

What this does is to introduce a set of standards which have no logical connection with the question of serious injury or, for that matter, any realistic concept of "disruption." Making a finding of market disruption prima facie evidence of injury shifts the burden, unjustly, to the dealer to prove that imports have not caused serious injury. The burden of proof should remain with those seeking relief from governmental policy.

Undoubtedly the terms of the bill could be interpreted in a manner covering many important items marketed by our dealers. The Commission, under some interpretations, could find that our products account for a "substantial" share of the market, and are "rapidly" increasing

both absolutely and relatively to domestic production and are being sold at prices lower than "comparable" domestic items. Even assuming the definitional problems involved can be solved and difficulties of comparison between unique items can be overcome, having found the existence of such elements in no way reaches the question of injury. That question is governed by the performance of the domestic industry and an analysis of the causal factors in any decline in the performance in the domestic industry. The criteria contained in the market disruption formula could be interpreted to describe most import items and we must add also describe the performance of successful exports from the United States. Without such elements, international sales are hardly likely to occur. As we look at the market for office machines, we find that such elements are irrelevant to any real analysis of what is happening in the marketplace and the question of injury.

We feel, therefore, that the burden of proof should remain where it is.

It should not be shifted to those like ourselves conducting business pursuant to established policy and without access to confidential data regarding production, employment, profits and sales of U.S. corporations. The ability to adduce evidence of injury lies uniquely in the hands of those claiming injury.

The market for office machinery is a burgeoning one with new products and new technology dominating sales in the marketplace. Our business thinking is dominated by these new developments in our field. They are comprehended in a new terminology which runs something like this:

"MOS/LSI," I am sure you have seen that in the newspapers. I might mention at this time that this is really a fallout of the space program. When they sought to develop onboard computers and get the size down to micro-individuals or minisize they were able to develop entire circuits for calculators as a fallout of this which has opened up a whole new industry. That MOS/LSI refers to "metal oxide silicon." LSI is the "large scale integrated" chips. This advanced technology allows the manufacture of entire circuits. The United States clearly has the technological lead. This has allowed domestic manufacturers of electronic equipment to materially reduce costs and, more effectively compete with imports.[1]

I might mention here being an office machine dealer and having been in this business 23 years we were on you might say the crest of the wave when this particular technology hit the market. The machines initially were quite expensive. They were imported but they opened up a whole new area to the office machine dealer. We were able to secure a number of large accounts to which we had been denied admission before and as the volume of these units rose the price of the units came down and a calculator which 6 years ago sold for $2,495 is available in the marketplace today for in the range of $395, but we are selling six and eight times as many of those units as we ever did before.

So that the benefit has gone to the consumer. It has been scary I have to admit because when the price descends from $2,495 to $395 and you have these crazy things in inventory it makes you a little nervous but you learn to move very fast.

[1] See United States Department of Commerce, United States Industrial Outlook, 1973, page 319.

Further developments are "LAD" which stands for light emitting diodes, and "LCD" which are liquid crystal displays. This refers to the display element of the electronic calculators. Here again, rapid progress has been made. The United States has the leadership and these components have enhanced the position of American manufacturers.

Texas Instruments is one. Victor Computer is another. Fairchild is another.

We are also entering into an era of the programmable calculator which, in effect, is a small computer. Here the United States clearly has the lead and the Department of Commerce estimates the worldwide market for this type of equipment to range from $300 million to $600 million a year.

Interestingly enough, many of the dealers who 20 years ago did not have the sophistication nor the professionalism to sell this type of product are now deeply engaged in this area of the business. They are learning, granted, much like the computer people learned 25 years ago, and they are able to work out specific programs, and it has enhanced a dealer's business to a point where he is living up to all the expectations that were put out by Business Week and Fortune Magazine, and those various publications, back in 1969 when they predicted that the office machines and computer industry would be the top growth industry of the century.

At that time they predicted an eight percent compounded growth rate, and we have lived up to every bit of it, every bit of it. We are also entering into an area of programmable calculators. Computer Corp. of California and a number of other companies are deeply engaged in that.

Another development is summarized by the initials POS, which refers to point of sales—cash registers with a computer component which allows inventory control and other accounting advantages. In this market Pitney-Bowes is in there. They are domestic producers. Here again, the Department of Commerce estimates that the market abroad will grow, although lagging behind that of the United States.

Another of the new terms is "word processing", which refers to typing systems, which allows a gal to do a rough draft at rough draft speed and update it at some 180 words per minute. It is quite an improvement in the offices, but it also refers to the spoken word processing, which in continuous dictation equipment of the kind made by Lanier Products of Atlanta, Ga. These greatly reduce the cost of producing letters and other written material. These systems consist of electric typewriters linked to a memory device, allowing for easy error correction, reduction in proof-reading time, rapid editing, faster typing and ease of handling written communications.

In electronic computers, produced in the United States by the same companies manufacturing office machines, but not marketed through office machine dealers, the United States overwhelmingly dominates the world market.

Altogether, including computers, the United States exported $1.6 billion in the business machine field in 1972. Imports of about $700 million were less than half, and resulted in the favorable trade balance for the United States in business machines of over $900 million.

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There are particular areas and particular types of machines where there was an import balance. We believe that isolating particular segments of the business machine industry distorts this overall picture. The United States has specialized in high technology "big ticket" items, which maximizes our competitive advantages. Imports are meeting other needs in the marketplace.

Even in these areas, however, we feel that the situation is changing. Substantial adjustments in the dollar's parity with other currencies, coupled with the development of new technology and new products has slowed the rate of import growth and clearly enhanced that export potential for U.S. manufacturers. For example, in the area of electronic calculators and parts. U.S. exports more than doubled in 1972. It is expected that these trends will continue in the future. Thus, in its 1973 Industrial Outlook, the U.S. Department of Commerce stated that "imports of electronic calculators from Japan are expected to remain near the $90 million level in 1972 as U.S. products become more competitive and prices move down."

Further, substantial growth in U.S. production of business machines is projected for the future. In the period 1972–80, for example, the Department of Commerce estimates a 6.5 percent annual growth in U.S. typewriter production, a 9.2 percent annual growth in calculators and accounting machines, a 5 percent growth in other office machines, and a 13 percent growth in the electronic computer industry.

This is not the place to review in any great detail the economics of marketing office machines in the United States. We do wish to suggest, however, that this is an extremely complicated market with a large variety of products and new technical developments dominating the future. A very fast track, gentlemen.

Thus, no automatic formula or set of unrelated criteria can be relied upon to substitute for thorough investigation and analysis in reaching a determination as to whether imports have caused serious injury. The market disruption formula is, in our opinion, a regressive step and a provision which should not be enacted into law.

There are other areas in which the National Office Machine Dealers Association has an interest. The time allowed for our testimony does not permit a full development of our views in these areas.

We do believe that the heart of the matter is the escape clause. Other changes proposed by the administration have materially loosened the criteria of the escape clause, making it much easier to establish a case for import relief. If, on top of this relaxation of standards, is added the vague concept of market disruption, the escape clause will become an engine of protectionism. And I don't think in our industry we can afford that.

We trust that the committee will carefully examine what appears to be an innocuous concept. Everybody can agree that something called "market disruption" is probably undesirable, but just what constitutes "market disruption," and particularly how the administration's proposal would operate in practice are other matters entirely.

It is not only our concern that a wave of protectionism will make it impossible for our dealers to conduct their businesses, but that this will result in an intolerable aggravation of concentration and monopoly in the business machine industry, which has happened in past years. In the end, our consumers would pay a heavy price. And that is the history of this business.

I think, as I stated before, the typewriter is the nucleus of the business of most office machine dealers. That is where he establishes his initial credibility. When he has established that in thousands of towns and cities across the United States, he adds on additional lines, or franchises as they may be called, in copying equipment, dictation equipment, the various other types of business machines. I think that, because of the point that I made earlier in my statement, some 80 percent of these products are imported, we cannot afford to have legislation enacted which would distress, maybe that is a better way to put it, the businesses that would affect over 300,000 people, 10,000 office machine dealers.

I would like to thank you on behalf of myself and the National Office Machine Dealers Association for the opportunity to appear before you and to present our views. I will attempt to answer any questions you may have.

The CHAIRMAN. We appreciate your statement, Mr. Charles.

Mr. CHARLES. Thank you, sir.

Mr. DANIELS. May we have permission, Mr. Chairman, that the statement as submitted by Mr. Charles be put in the record?

The CHAIRMAN. Without objection, that will be done.

We thank you, Mr. Charles.

Mr. CHARLES. Thank you.

The CHAIRMAN. Mr. Peter F. McCloskey.

Mr. McCloskey, if you will identify yourself for our record and the individual with you at the table we will be glad to recognize you.

STATEMENT OF PETER F. McCLOSKEY, PRESIDENT, COMPUTER AND BUSINESS EQUIPMENT MANUFACTURERS ASSOCIATION, ACCOMPANIED BY ROBERT KLAGES, CHAIRMAN, FOREIGN TRADE COMMITTEE

Mr. McCLOSKEY. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee: I am Peter F. McCloskey, president of the Computer and Business Equipment Manufacturers Association, CBEMA. With me today is Mr. Robert Klages, counsel, Sperry Rand Corp., who is chairman of our Foreign Trade Committee.

The CHAIRMAN. We are glad to have you with us. You are recognized.

Mr. McCLOSKEY. We appreciate the opportunity you have given us to testify here today.

SUMMARY COMMENTS

CBEMA is a trade association representing the computer, office machines, and office furniture industries. Our industry is in the forefront of utilization of technology and has, until recently, consistently increased its contribution to a surplus trade balance each year.

We strongly support the necessity for and thrust of the Trade Reform Act of 1973. We will comment on the following points:

Trade negotiations: In this area more formalized and expanded consultation with industry is needed.

Fair competition: There is no economic basis for the suspension of items 806.30 and 807.00 of the Tariff Schedules of the United States.

Permanent improvement of adjustment assistance rather than concentration on unemployment relief should be considered.

Unfair trade practices: Provisions should be made for hearings prior to action against foreign import restrictions and export subsidies.

Balance-of-payments authority: Provision should be made for hearings and congressional disapproval.

Most-favored-nation treatment: MFN status should be extended on the same basis as it has been extended historically to all countries with whom trade is conducted.

We support the generalized preference provisions as necessary and useful.

Taxation of foreign source income: The proposals advanced will cause greater harm than any possible benefit.

Antitrust clarifications: Clarification of the rules under which U.S. business can compete internationally is necessary.

Technology controls: Controls over the "export" of technology are short-sighted and self-defeating.

THE COMPUTER AND BUSINESS EQUIPMENT INDUSTRY

As our name states, CBEMA members are involved in the manufacture and sale of computers, office machines, such as typewriters and duplicating equipment, and office furniture and equipment. Although the amount and balance of trade in our various groups differs, in total, our industry currently has and has long enjoyed a favorable surplus trade balance. In 1972, exports of our industry were $1.79 billion and imports were $707 million.

For the past 3 years, however, the industry's export growth has merely matched the growth in imports, giving a contribution to the U.S. trade balance of approximately $1.1 billion. In each of these 3 years, several factors may be cited to account for the slowdown in export growth, including:

U.S. economic and monetary problems.

European and Japanese economic slowdowns.

Rapidly increasing foreign competition and restrictions on the products of U.S. companies in this industry.

U.S. Government restrictions and impediments to sales in growth markets in East Europe, the U.S.S.R. and China.

The members of our industry believe wholeheartedly that the country's international economic future is tied to a world trading environment open to freer and fairer international competition with reduced tariff and non-tariff barriers, and concentration on our economic strengths, which include:

Highly skilled, highly paid and highly productive workers.

Innovative and aggressive management.

Vigorous development of technology.

Rational application of our resources of capital.

There is a tendency, here and abroad, to cite the U.S. computer industry as an unstoppable juggernaut. In the near future this idea may be as quaint as the ideas expressed so recently in Servan-Schreiber's book, "The American Challenge." In recent years other countries have built non-tariff barriers consisting of complex importation requirements, governmental and quasi-governmental buy-

ing policies, and direct financial support to their domestic computer industries.

At the present time the EEC and Japan are encouraging massive reorganization through merger of their domestic business equipment manufacturers.

Just getting off the ground are standards and certification programs in which U.S. industry could find great difficulty in participating. In some countries control over access to the national communications network is being used to control development of communications based on computer systems.

As you are aware, U.S. firms must act in strict accordance with U.S. antitrust laws at home and abroad. Additionally, it is not in the American tradition for the Federal Government to plan and coordinate the actions of industry, nor does U.S. industry desire such arrangements. However, it is clear that no industry can long match the concentrated action of governments which act to favor their own industry or to discriminate against foreign corporations.

We believe, therefore, that our negotiators must have the power, and our Government must have the dedication, to establish and maintain freer and fairer rules of international trade. As we see it, we must not cling by artificial restraints to industries in which we clearly have no comparative advantage, nor can we long countenance other countries clinging to similar barriers of their own.

COMMENTS ON THE TRADE REFORM ACT OF 1973

I will turn now to specific comments on the various proposals before th committee. As stated initially, we strongly support the Trade Reform Act of 1973. Where we propose modifications, they are intended to insure that U.S. international economic policy achieves parity with U.S. International Political Policy and that all segments of American opinion have an opportunity to be heard in such policy formulation.

NEW NEGOTIATION AUTHORITIES

In order to put the United States on a fair footing we must make every effort to insure that our negotiators have the powers necessary to produce the changes needed in the rules of international trade. The provisions of title I, we believe, will provide such authority while retaining sufficient power in the Congress to review changes in nontariff barriers.

We are concerned, however, about the timing of and lack of emphasis on consultation with industry and labor. There is no provision for prenegotiation solicitation of information or creation of advisory groups. In addition, provision should be made for rapid consultation on major moves during the negotiations. Providing for input from affected industries only after a trade agreement is proposed will provide an ineffective mechanism of consultation since the proposed agreements will be defended inevitably as necessary parts of a much larger package.

We also urge the committee to review other instances where consultation between the executive and private bodies is desirable, not only to determine where congressional or public hearings are re-

quired, but also to assess the impact of the Federal Advisory Committee Act on the consultative process.

We are also concerned about the unlimited authority to raise or lower tariffs. The President should be given wide latitude; however, when the total elimination of a tariff is proposed, or where significant upward revision is contemplated, congressional review authority, similar to that proposed for non-tariff barriers, seems appropriate.

RELIEF FROM DISRUPTION CAUSED BY FAIR COMPETITION

The provisions for import relief place a powerful discretionary weapon in the hands of the executive. The hearing and decision process is, we believe, deficient in not providing notice at the earlier opportunity of a Tariff Commission investigation, accompanied by copies of the petition for relief and followed by scheduling of the required public hearing early in the investigation.

We propose further that section 202 be amended to require a report to the Congress by the President whether or not relief is granted.

We question seriously the provisions allowing suspension of items 806.30 and 807.00. The Tariff Commission study of these provisions showed not only a positive impact on the U.S. economy from these items, but illustrated conclusively that they are utilized in many cases where retention of any production in the United States is marginally profitable. Suspension of these items alone would, therefore, probably result in the complete process of manufacture becoming uneconomic in the United States for those products involved. Thus such suspension would necessarily be accompanied by increases in duty or other restrictions, compounding the initial negative impact on the economy as a whole.

With regard to adjustment assistance, our experience with the dislocation caused by domestic and international competitive changes implies tha special programs are needed to cope with their impact. We agree with criticism of the current program, but recommend its revitalization and expansion, rather than a turn towards reliance on unemployment payments. We recommend also that greater emphasis be placed on finding and training affected workers for other specific jobs.

RELIEF FROM TRADE PRACTICES

The actual facts of competition and commerce determining whether foreign import restrictions and export subsidies burden, restrict, or discriminate against U.S. commerce frequently require intimate knowledge of the actual conduct of business in the affected industry. For this reason, it is recommended that public notice of the contemplation of actions under section 301 be required and that an opportunity for hearings be given all parties. Provision should be made for preserving confidential information tendered during the course of such review.

The committee should also consider whether a formal report to the Congress should not be required whenever any action is taken under the provisions of section 301.

BALANCE OF PAYMENTS AUTHORITY

In view of the fundamental significance of actions which may be taken under this section relating to balance of payments authority it is proposed:

That such actions be subject to congressional disapproval.

That disapproval of actions taken regarding duties be separable from actions regarding import limitations; and that under the provisions for dealing with a surplus, where action is proposed regarding any specific article, provision be made for hearings from the industry affected.

MOST-FAVORED-NATION TREATMENT

It has been and continues to be the position of this industry that MFN treatment should be accorded on an equal basis to all countries with whom considerations of national security do not justify embargo of trade.

Most other trading nations carefully separate economic and political policy. Therefore, whenever our Government conditions its trade policy on external factors, the result is that U.S. industry is placed at a specific disadvantage.

In this instance new markets are being pentrated by the companies of other countries. It will be much more difficult to compete against well-established trading arrangements even when MFN treatment is in effect.

GENERALIZED SYSTEM OF PREFERENCES

We applaud the insertion of this title and commend its provisions. We hope this approach will serve to assist the developing countries in achieving their own economic goals and reduce the trend toward regional economic blocs.

COMMENTS ON OTHER PROPOSALS

Turning to the other proposals before you, I will comment on the proposed changes in taxation of foreign source income, amendment of the Export Trade Act and imposition of technology controls.

TAXATION OF FOREIGN SOURCE INCOME

Almost every study of the foreign operations of U.S. firms has concluded that decisions to invest abroad are made to obtain access to raw materials or access to markets which cannot be supplied effectively through exports alone. It it certainly true that the tax impact is fully considered: however, such considerations usually impact where to locate abroad, not whether to locate abroad.

Furthermore, the provisions proposed with respect to foreign source income are so vague, ill-defined, and discretionary that considerable uncertainty would be cast over evaluation of the tax aspects of most foreign investments.

In light of the demonstrated positive impact on foreign investments, we oppose these provisions as being self-defeating, arbitrary and counter-productive.

AMENDMENTS TO THE WEBB-POMERENE ACT

While not before this committee, we would like to endorse the President's proposed amendments to the Webb-Pomerene Act regarding inclusion of services under the act and clarification of the application of domestic antitrust laws to export associations.

Such changes will provide a framework in which U.S. industry can compete more effectively in large industrial projects against private combines and Government-directed foreign competition.

TECHNOLOGY CONTROLS

Finally, I would like to address the proposals for controls over the export of technology. Gilbert E. Jones of IBM, in his statement on May 14, set forth the facts of technological development, not only for his company, but also for almost every industry. Three points sum up the futility and adverse impact which would result from such controls:

In an open society such as ours no basic technological advance is secret for long.

Most transfer of technology is to affiliates of the originator, therefore, the benefits come back continually.

We need foreign technology.

If we are truly committed to an interdependent world dedicated to peace and the improvement of life for all people, no surer way could be found to thwart these goals than to develop a technological autarky.

Mr. Chairman, we distributed to the committee recently copies of the National Export Expansion Council report on office machines and computers such as I have with me. This report examines, in depth, many of the issues before you. I commend it for your review.

Thank you for your attention. We are prepared to answer any questions you may have.

The CHAIRMAN. Thank you, Mr. McCloskey.

Are there any questions of Mr. McCloskey.

Again we thank you, sir.

Mr. McCLOSKEY. Thank you.

[The following was submitted for the record:]

STATEMENT OF GENERAL ELECTRIC CO.

General Electric Company appreciates this opportunity to submit to the Committee its views on the proposed Trade Reform Act of 1973, and the Treasury Department's recommendations on taxation of foreign source income.

Congressional action of these proposals can have a profound influence on overseas trade and investment by U.S. business, with effects in turn on the U.S. consuming public, U.S. employment, and the U.S. balance of payments; and so to put our comments in their appropriate context, we would like to commence with some brief observations about General Electric's international activities.

I. GENERAL ELECTRIC'S INTERNATIONAL BUSINESS

1. General Electric is a manufacturing company with a broad variety of product lines, all deriving from a common core of electrical technology. Its investment and employment are predominantly domestic. Of its consolidated total net investment in plant and equipment at year end 1972 of $2,136,000,000, some $276,000,000 or 13 per cent consisted of investment in foreign countries. Of the Company average employment world-wide during 1972 of 369,000, some 78,000 employees or 21 per cent were located outside the United States.

2. Although General Electric is by any measure a company with deep roots in the U.S. economy, it has been a competitor in foreign markets and an investor in offshore facilities throughout this century. Its 1972 U.S. exports of $894,000,000 amounted to over 2.6 per cent of total U.S. exported manufactures. Our studies indicate that the net favorable effect of the Company's international activities on General Electric domestic employment is in excess of 20,000 full-time jobs: about 65 per cent of this number are hourly paid employees. Other studies suggest that at least another 20,000 jobs, and probably thousands more, exist in other organizations—suppliers of materials and services, financial institutions,

shipping and transportation companies, and government agencies—because of the Company's international activities. In addition to these 40,000 + domestic positions, U.S. employment in General Electric businesses such as locomotives, gas turbines, aircraft jet engines and marine propulsion, is indirectly attributable to export volume. These businesses serve and are dependent upon world markets and export sales are critical to their success because of high investment and high development costs.

3. General Electric's international transactions make a substantial net favorable contribution to the U.S. balance of payments. General Electric's favorable merchandise trade balance (excess of exports over imports) for the five years ended December 31, 1972 amounted to about $2,100,000,000.

The merchandise trade account is by far the largest element in General Electric's total international transactions, but other current account items also resulted in a favorable balance. Inflows (dividends, interest, royalties and payments for services) exceeded comparable current account outflows over the same fivee year period 1968–1972 by roughly $325,000,000. During the five year period direct investment abroad—exclusive of retained earnings—amounted to only $25,000,000 and had little effect on the overall basic balance.

The current account inflows, and particularly income from export sales, yield significant contributions to U.S. tax revenues.

With this background, we turn to a consideration of the proposed Trade Reform Act, and of the Treasury Department recommendations on taxation of foreign source income.

II. TRADE REFORM PROPOSALS

General Electric supports the proposed trade legislation, H.R. 6767, as a comprehensive and balanced set of provisions designed to increase the flow of U.S. trade with the developed countries, notably Canada, the European Community and Japan by reducing non-tariff distortions of such trade, and by further reductions of tariff barriers; increase trade with the non-market economies and the less developed countries; provide temporary safeguards for U.S. industry against adverse effects of import competition even when that competition is fair; provide temporary adjustment assistance to employees adversely affected by import competition; protect U. S. industry against inequitable import competition (i.e. dumping, subsidies and unfair competitive practices); and permit imposition of import controls to correct persistent imbalances of U.S. international payments.

General Electric endorses all these objectives and the basic features of the proposed bill. We agree that the Federal Government must take temporary steps by way of safeguards to permit a gradual adaptation to the effects of increasing import competition. In addition, we believe that the provisions for adjustment assistance for workers, including unemployment benefits, are sound and well-conceived.

However it is clear for many reasons—not least of all the growing U.S. requirements for imports of oil and natural gas—that the main thrust of U.S. international economic policy must be in the direction of promoting expansion of U.S. exports, both by steps calculated to improve the competitive effectiveness of U.S. industry and by measures designed to establish, on a multilateral basis, fair rules of international trade.

This leads to our comments on specific features of H.R. 6767, which fall into four main categories.

First, suggestions as to mechanisms to assure effective industry participation in the international negotiation process which will be conducted pursuant to the Trade Reform Act.

Second, suggested amendments to Title II relating to relief from disruption caused by fair competition—"safeguards".

Third, suggested amendments to Title III relating to unfair practices.

Fourth, suggested amendments relating to a Congressional role in decision-making under section 401 (Balance of Payments Authority) and section 405 (Authority to Suspend Import Barriers to Restrain Inflation).

Industry participation in the international negotiating process

Critical decisions determining the course of U.S. trade for the next decade or more will be embodied not only in the detailed terms of the Trade Reform Act, but in international agreements negotiated pursuant to those terms, including revisions of the General Agreement on Tariffs and Trade (GATT). The proposed Act should be regarded therefore as serving the dual purpose of (i) laying the

groundwork for new negotiated international arrangements, and (ii) providing the basis for last resort action if satisfactory arrangements cannot be agreed upon.

For example, the strengthened retaliatory authority proposed in section 301 of the bill seems to us highly desirable, indeed essential, but hopefully its principal value will be as an inducement to development of international codes laying down workable ground rules on such matters as procurement by government-controlled entities. Similarly, proposed section 301 and the revisions of the countervailing duty statute proposed in section 330, will have their maximum effect if they lay the basis for an international code regulating various forms of export subsidy.

On these matters, H.R. 6767 grants to the Executive Branch a very broad discretion—both as to what unilatral action it may take under proposed section 301 or section 330, and as to what international ground rules on non-tariff distortions, it will negotiate (subject to veto by either House of Congress) under section 103. In spite of the fact that the basic authority to regulate commerce wih foreign nations is assigned by the Constitution to the Congress, this broad discretion seems to us inescapable. In most of these matters, the United States will be constrained to operate by multilateral and bilateral agreements. In negotiating these agreements, the credibility and effectiveness of the Executive Branch will be critically dependent on a broad mandate from the Congress, and on reasonable confidence on the part of the nation's trading partners that Congress will back up the Administration negotiators.

However, the very breadth of the delegations requested in the Trade Reform Act, emphasizes the need for incorporating in the bill procedural protections to assure that Executive Branch actions, which can have major effects on U.S. consumers, U.S. workers, and U.S. industry, will take reasonable account of those effects. In this connection, we observe that at least for some substantial industries—and electrical manufacturing is one—the most important aspect of the forthcoming international negotiations will not be changes in tariff rates but efforts to establish new international ground rules for fair competition through "reduction, elimination, or harmonization of barriers and other distortions. . . ."

We would recommend therefore that Chapter 2 of Title I, "Hearings and Advice Concerning Negotiations . . ." be amended to:

1. Provide that the trade negotiations will be conducted by industry sector;
2. Provide that in such industry sector negotiations, non-tariff distortions and tariff rate changes will be negotiated together;
3. Require (rather than merely authorize) the establishment by the Special Trade Representative of advisory committees, subject to the Federal Advisory Committee Act (except section 10(a)(1) and (3)), and require that such committees shall be organized by industry sector; and
4. Require that these advisory committees be kept informed by the Special Trade Representative of significant developments during the progress of negotiations and be given a timely opportunity to advise the Special Trade Representative.

An equally important protection would be afforded by the establishment of a Joint Congressional Committee on Foreign Trade, as recently proposed by Congressman Mills and Senator Long. General Electric strongly supports the proposed Joint Committee or some similar mechanism for continuous Congressional monitoring of (i) the progress of trade and monetary negotiations, and (ii) the day to day operation of the provisions of the Trade Reform Act. We urge that the Joint Committee be adequately funded so that it can develop a staff capability which would permit close and effective interchange with the Executive Branch. Beyond that we would suggest that the Joint Committee and its staff should hold public hearings to receive the views of consumers, labor and industry on issues developed in the international trade negotiations, and should open up lines of continuing informal communication.

Such a mechanism would prove an effective tool for the discharge of the Constitutional responsibility of the Congress to regulate commerce with foreign nations and at the same time reassure all affected interests that specific decisions affecting trade will be made fairly and in the overall national interest.

Safeguards

General Electric recognizes that the "escape clause" provisions of the 1962 Trade Expansion Act require substantial strengthening and revision. In general, it endorses the "temporary safeguards" approach embodied in Title II of H.R. 6767. However, it believes the Committee should make two changes in proposed

section 203 relating to the type of import relief to be granted by the President.

1. The authority to suspend the application of items 806.30 and 807 of the Tariff Schedules of the United States should be deleted. There is abundant evidence before this Committee that the effect of TSUS 806.30 and 807 is to increase U.S. employment, because they make economically feasible continued domestic manufacture of components which would otherwise be made abroad. Suspension of these provisions would therefore be counterproductive and would defeat the purposes of Title II.

2. Quotas are in general the most economically distorting and undesirable form of import restrictions. We would suggest therefore that such quotas be imposed only if the President determines in writing that tariff rate increases are not adequate to serve the purposes of Title II, and only if he further determines that it is not practicable to negotiate orderly marketing agreements.

Unfair trade practices

Title III of H.R. 6767, "Relief from Unfair Trade Practices," would enact new provisions superseding section 252 of the Trade Expansion Act ("TEA"), which would strengthen and clarify the authority of the President to retaliate against unfair trade practices by foreign countries; amend and strengthen the Antidumping Act; amend and strengthen the countervailing duty statute; and amend section 337 of the Tariff Act of 1930 relating to unfair methods of competition and unfair acts in import trade, partly by transferring some authority from the Tariff Commission to the Federal Trade Commission.

We will comment on these points in order.

Retaliatory authority.—We believe section 301 of H.R. 6767 represents a significant improvement over its counterpart section 252 of the TEA. For one thing, it is sound to apply the concept of unfair foreign country trade practices not only to acts which discriminate against U.S. exports to that country but also to devices such as foreign export subsidies which impair U.S. trade with third countries. For another, it is desirable to extend the President's authority to apply restrictions to industrial as well as agricultural imports from the country engaging in unfair practices. However, new section 301 of the Trade Reform Act would be further strengthened by two other changes:

1. Present section 252 of the TEA defines "tolerance of international cartels" as an act unjustifiably restricting U.S. commerce. This reference is deleted from proposed section 301. We hold no brief for the precise words, but it seems to us desirable to make clear that sustained foreign government tolerance of private behavior which, in a discriminatory or unfair or unlawful manner, restricts U.S. commerce will be regarded as an act of the foreign country for purposes of invoking the retaliatory authority.

2. Similarly the concept of unfair practices affecting U.S. trade with third countries might be extended beyond the specific case of subsidies and made applicable to such matters as the reverse preferences obtained by the Common Market.

Antidumping Act.—General Electric endorses the suggested revisions of the Antidumping Act (i) establishing time limits for action, (ii) requiring a hearing on the record and findings, and (iii) clarifying the concepts of "purchase price" and "exporter's sales price." However, we also believe that decisions on dumping should be made subject to judicial review (but not a trial de novo) at the instance of any affected party, in accordance with 5 U.S.C. sec. 706.

Countervailing duties.—General Electric endorses the proposed amendments of the countervailing duty statute (i) establishing time limits, and (ii) extending the countervailing duty authority to duty free goods, subject to a finding of material injury. We oppose the provisions of proposed paragraph (d) granting a general and essentially undefined discretion to the Secretary of the Treasury to withhold imposition of the duty. We recognize that there must be some room for discretion but believe that the criteria for exercise of the discretion should be carefully delineated in the statute.

We would also recommend that decisions imposing or withholding a countervailing duty should be subject to judicial review (but not a trial de novo) at the instance of any affected party, in accordance with 5 U.S.C. sec. 706, except in cases where the President determined in writing that withholding was required because of potential adverse effects on relations with the foreign country involved. A provision for judicial review should be accompanied by a requirement for a hearing on the record and for findings, along the lines proposed in the amendments to the Antidumping Act.

Amendments of section 337.—General Electric supports the proposed revisions of section 337 of the Tariff Act of 1930, which would (i) confine the authority of the Tariff Commission to cases of patent infringement, (ii) eliminate the provisions for a Presidential determination, (iii) make other procedural changes, and (iv) transfer to the Federal Trade Commission authority to exclude articles from entry into the United States in other cases of unfair methods of competition or unfair acts. We oppose, however, one feature of the proposed amendment to Section 6 of the Federal Trade Commission Act. The suggested amendment contemplates that the FTC would be denied jurisdiction in cases where a remedy is provided by the Antidumping Act, the countervailing duty statute or the patent infringement provisions of section 337. A particular practice (for example, predatroy or discriminatory pricing) might at once constitute an unfair method of competition within the meaning of the FTC Act, and a violation of another statute such as the Antidumping Act. We agree that it would not be orderly procedure to permit simultaneous prosecution of cases addressed to the same practice, before the FTC and another agency. However, it is unnecessary to oust FTC of jurisdiction simply because of the theoretical availability of another remedy. We would suggest that proposed new paragraph (i) of section 6 of the FTC Act provide simply that the FTC shall be ousted of such jurisdiction only by the pendency of another proceeding addressed to the same practice and based on dumping, application of a countervailing duty, or patent infringement.

Balance-of-payments authority and suspension of import barriers to restrain inflation

Title IV of H.R. 6767 relating to "International Trade Policy Management", contains, among other provisions, broad new grants of authority to the President to impose or liberalize restrictions on imports to deal with serious balance-of-payments problems (deficit or surplus) (section 401), and to reduce import restrictions for periods up to one year, to restrain inflation (section 405).

In general, persuasive arguments are made for this degree of Presidential flexibility to respond to sharp swings in trade or payments balances, or to sharp increases in dometic inflationary pressures. However, steps taken pursuant to these provisions can impact heavily on the U.S. economy or on particular segments of it or on sensitive relations with one or more foreign countries—particularly if there is a departure from the most-favored-nation principle. We believe that greater Congressional involvement in such fundamental decisions would be highly desirable. Accordingly, we would propose that Presidential action in this area should not only be reported to the Congress but should be subject to veto, within some reasonable time period, by majority vote of the whole membership of either House.

We conclude our discussion of the Trade Reform Act by noting that H.R. 6767 does not deal with one significant aspect of the total problem of restoring a favorable U.S. merchandise trade balance—namely, Government programs to promote export sales. Broadly there is one category of steps to improve U.S. exports which can and should be taken in any event, for example, simplification of governmental requirements for international trade documentation. A second category of steps relates to financial incenitves for increased exports, for example, favorable financing terms for exports to less-developed countries. Some of these areas are proper subjects for the international code on export incentives suggested above. However, in the absence of such a code, the U.S. may be compelled to match incentives offered by other industrial countries if it is to remain competitive in world trade. This broad area is being explored by other Committees of the Congress, and we suggest that one useful step would be for the Department of Commerce to develop, with U.S. industry help, a comprehensive analysis of export incentives offered by all the industrial nations.

III. TAXATION OF CONTROLLED FOREIGN CORPORATIONS

The Administration has proposed that earnings of controlled foreign corporations engaged in manufacturing and processing operations abroad be taxed currently to the U.S. shareholders of such corporations where there is a new investment in a manufacturing or processing facility after April 9, 1973 (or in the case of a facility in existence on that date, there is an additional investment in excess of 20 per cent) and either of the two following situations exists:

1. The investment is made during a period in which a tax holiday or other tax investment incentive is in effect. For this purpose, the Treasury Department would have the authority to determine what foreign practices constitute tax in-

vestment incentives. Once subject to the provisions of this proposal, the earnings of the controlled foreign corporation would forever thereafter be taxed currenlty to the U.S. shareholders of such corporation; or

2. More than 25 per cent of the corporatiton's gross receipts are realized from the manufacture of products destined for the U.S. market and the effective foreign tax rate of the corporation is less than 80 per cent of the U.S. tax rate. This test would be applied on a year to year basis.

The adoption of either of these two proposals would seriously impair the ability of General Electric to compete effectively in the international market place with non-U.S. controlled foreign corporations which could continue to take advantage of such inducements, and it would substantially reduce the Company's ability to continue to contribute favorably to the U.S. balance of payments, and to employment in the United States.

Tax incentive proposal

Since its founding the Company has been engaged in many types of international business and operations with long-standing subsidiaries in many parts of the world. While the Company prefers to serve foreign markets by exporting products from its U.S. base, this alternative often is not practicable because of foreign factors, such as nationalism, cost competitiveness, import restrictions, requirements for local content, and distribution impediments and inefficiencies. Under these circumstances the Company must either abandon the foreign market or manufacture abroad through subsidiaries. Of the two, if prefers the latter since by so doing it (i) retains its position in the foreign market, (ii) supports the foreign trade position of the U.S. through exports of U.S. made equipment and components used in foreign manufacture, as well as by the draw-through of other export products of the Company as a result of a continuing strong representation in the foreign market, and (iii) enhances total Company profitability.

If the Company were to be penalized for taking advantage of a foreign tax inducement or other incentive also available to non-U.S. controlled competitors, the Company, competitive position abroad for all times thereafter would be seriously hampered with adverse effect on its total international business including export sales. Since virtually all countries in which the Company is engaged abroad have practices which could be construed as incentives, the potential impact would be to place all General Electric's foreign manufacturing operations at a competitive disadvantage with non-U.S. controlled foreign corporations. Moreover, where successful penetration of the foreign market depends upon minority participation by local (foreign) interests, passage of the proposed legislation would deter such participation and thus further undermine the opportunity of the Company to participate in such markets. We cannot understand how this could be considered to be in the best interest of the U.S., and we urge Congress not to adopt any such legislation.

"Runaway plant" proposal

General Electric definitely prefers to conduct all phases of manufacturing from domestic plants, when it can do so economically, rather than to rely on external foreign manufacturers. While we recognize the concern that exists with respect to so-called "runaway plants," manufacturing abroad for competitive reasons for import into the United States should not be considered a "runaway plant" situation. To tax currently shareholders of a U.S. controlled foreign corporation, solely because such corporation exports more than 25 per cent of its products into the U.S. and its income is subject to foreign tax at a rate less than 80 per cent of the U.S. rate, places such corporation at a competitive disadvantage with foreign-controlled corporations manufacturing for consumption in the U.S. market. In effect this is saying to a U.S. corporation that it should rely upon foreign-controlled manufacturers for products and components which they can manufacture abroad more economically than the U.S. corporation can in the U.S. and should concede to them both the U.S. market and third country markets which they can exploit from foreign sources without having to compete with U.S. controlled foreign corporations. Lack of a U.S. presence abroad able to compete on equal terms in all markets with foreign competitors, means not only dependency upon foreign-controlled manufacturers for important segments of a total manufacturing process of U.S. operations, but also loss of exports of U.S. manufactured equipment and components, as well as draw-through exports of other products. Moreover, while a U.S. controlled foreign facility might initially manufacture to supply the U.S. market, it eventually becomes the base

for serving third country markets which otherwise would be served by foreign controlled facilites.

We recognize that the Treasury Department has attempted to clarify and ameliorate some of the harsher aspects of its recommendations to Congress by its statement of June 11, 1973. However, the statement leaves open widely divergent alternative methods of treating such vital matters as the effective date for imposing current tax treatment on existing investments, and the comments here set forth are still highly relevant.

In summary, we urge Congress not to adopt either of these proposals because they would seriously impair the ability of General Electric and other U.S. corporations to compete effectively in the international market place, including manufacture for consumption in the U.S., in competition with non-U.S. controlled corporations serving the same markets. If there are specific abuses adversely affecting the overall best interests of the United States, they should be dealt with specifically and not on a basis that would penalize all U.S. businesses in their intensifying competitive battle with non-U.S. controlled corporations.

We close by expressing the hope that the Congress will act expeditiously and favorably on H.R. 6767, the proposed Trade Reform Act. The system of international trade on a fair, free basis envisioned by that Act can make a vital contribution to an improved quality of life at home and abroad and even more importantly, to world stability and peace. Expanding U.S. trade to include the Soviet Union, Eastern Europe and the People's Republic of China, can prove to be one of the more valuable initiatives in recent years.

We hope that the road chosen by the Congress will not be retreat to a self-defeating nationalism, but will instead lead to expansion of world trade and investment on the basis of internationally established equitable rules, accompanied by compassionate Government concern for those relatively few dislocated by national policies which serve the larger public interest.

The CHAIRMAN. Our next witness is Mr. Thomas A. Hood, president of the National Association of Marble Producers. Mr. Hood, we are pleased to have you with us today. If you will identify yourself and those at the table with you, we will be glad to recognize you.

STATEMENT OF THOMAS A. HOOD, PRESIDENT, NATIONAL ASSOCIATION OF MARBLE PRODUCERS, ACCOMPANIED BY FRANK L. DENNIS, COUNSEL, AND DON A. HAGERICH

Mr. HOOD. Mr. Chairman, thank you very much.

With me today is Mr. Frank L. Dennis, counsel to the National Association of Marble Producers, on my right, and on my left is Mr. Don A. Hagerich of the Georgia Marble Co., a member of our association.

The CHAIRMAN. You are recognized, sir.

Mr. HOOD. As an introductory word, we believe that your committee will find our experience exceptionally informative. I say this because the President has confirmed that we have been damaged as an industry and will continue to be damaged as a result of trade concessions, and yet we have not been accorded meaningful relief.

The National Association of Marble Producers is an association of domestic marble quarriers that has been in existence for many years to enlarge the use and promote the sale of domestic marble.

Since the inception of the Marble Institute of America in 1944 the National Association of Marble Producers has worked very closely with the MIA in carrying out their mutual objectives.

MIA is the American marble industry's national trade association of companies engaged in quarrying, importing, wholesaling, fabricating and installing marble for building and decorative purposes.

The purpose and objective of the MIA is to create, expand and maintain a market for all marble, domestic and foreign, in the United States.

Mr. Don A. Hagerich, who is on my left, then executive director of MIA, presented to this committee a statement on June 10, 1970 about tariff and trade proposals which is important for your reconsideration at this time. I would like to quote from that statement:

Importation of marble in rough block form by the American marble industry for fabrication in the United States has been an industry practice dating back to the opening of the first U.S. marble quarry in 1785.

Domestic decline began in 1956 when the total dollar value of imported marble fabricated by foreign labor, ready for installation on or in U.S. buildings, equalled the importation of rough, unfinished, marble blocks at approimately $1,500,000.

As reported by the U.S. Department of Commerce, Bureau of the Census, U.S. import for the year ending December 31, 1969, total dollar value of imported rough marble blocks brought into the U.S. was $423,657. A decline of 72 percent in 12 years. However, during this same 12 year period, the total dollar value of imported fabricated marble was $10,256,432. An increase of more than 560 percent.

The die was cast when American tax dollars were poured into wartorn countries of Europe to rebuild their economies and industries. Italy emerged with marble fabricating plants operated at full capacity in 1970 by workers earning approximately 50 percent less than their American counterparts.

The American marble industry receives no subsidy.

The American marble industry enjoys no quota protection on foreign fabricated marble. The GATT Agreement reduced the 21 percent ad valorem tariff by 10 percent each year to 10.5 percent ad valorem by December 30, 1972. Thus putting the American marble industry at an almost fatal disadvantage.

Therefore, the U.S. marble industry, as old as the nation itself, looks back a mere 25 years and observes, incredulously, that our own Government has, in effect, subsidized our foreign competitors to the point where they can produce and fabricate marble and deliver it to an American building site much cheaper than we can and, in the same period practically wiped out the modest tariff that did exist.

It certainly is not mere rhetoric to say that the United States Government has contributed generously to the impending death of one of America's oldest industries.

Unfortunately, the distressing plight of the domestic marble industry continues. Your committee briefing paper No. 2, dated May 1973, entitled "Comparison of Ratios of Imports and Apparent Consumption 1968–72," page 233, item headed marble and travertine and articles thereof shows that imports in 1972 represent 59 percent of domestic consumption. This is the highest percentage for the years reported, and compares with 49 percent in 1968.

In 1970, the National Association of Marble Producers formed an Imports-Trade Committee, chaired by Mr. Roy E. Mayes, Jr. of the Carthage Marble Co. of Carthage, Mo., to prepare a petition for industry relief to be presented to the U.S. Tariff Commission. This petition was presented in February of 1971.

The petition was favorably received and was followed by an investigation and hearing. The Tariff Commission in their finding split evenly with two Commissioners adopting a finding favorable to the domestic marble industry. The U.S. Tariff Commission report is TC publication 420 entitled "Marble and Travertine Products," dated September 1971.

The President of the United States studied the Tariff Commission report until early 1972 when he advised the Congress of his decision to adopt "the finding that the domestic industry is threatened with serious injury." Congressional Record, Senate, January 31, 1972. Letter to Hon. Spiro T. Agnew dated January 28, 1972.

The President further "provided that firms and the workers of the domestic industry may request the Secretary of Commerce and the Secretary of Labor, respectively, for certifications of eligibility to apply for adjustment assistance." One firm in our industry has been certified eligible by the Secretary of Commerce to apply for adjustment assistance." One firm in our industry has been certified eligible by the Secretary of Commerce to apply for adjustment assistance and another certification is pending. No programs of adjustment assistance have been adopted. The Secretary of Labor has approved adjustment assistance for many marble industry workers. I noticed that in the back of one of your briefing papers there is a summary of that situation with respect to marble workers.

The threat of injury and actual injury to the domestic marble industry started many years ago and continues today. Yet now in May 1973, the inroads of foreign marble products continue unabated and the provisions of the law have brought no relief to the firms affected. The domestic marble industry, along with many other industries were made "sacrificial lambs on the altar of free trade" as a result of concessions made over the years, especially during the Kennedy round resulting in the Trade Expansion Act of 1962. The provisions of this law which were intended to provide adjustment assistance or relief to such workers and firms have not worked effectively in the domestic marble industry.

PERIOD OF STABILITY NEEDED

What the domestic marble industry needs today is a period of competitive stability in face of increasing foreign competition in order to rebuild. We need to invest in new machinery and equipment. We need to proceed with research and development of new methods and procedures in quarrying, sawing, and finishing. We need to advance technically in developing the use of marble. We need to train the skilled workmen, required in our industry to replace those that we have lost. We need to rebuild inventories of marble. We need to redevelop the sales, advertising and promotional programs of the industry to face competition from competing building materials.

The domestic marble industry has not lacked ideas or the desire during this period but because of the lack of adequate margins over cost, it has been unable to meet these needs itself.

Our foreign competition, especially from Italy, financed by adequate margins over cost or by direct or indirect government assistance have surpassed us in investment in new machinery and equipment at all levels from quarries through finishing shops. These investments have provided substantially for their competitive edge.

TARIFF CHANGES ON FINISHED MARBLE WILL PROVIDE STABILITY

The President's letter to the Congress of January 28, 1972 states:

> Testimony before the Tariff Commission and information in the Commission's report makes it fairly clear that increasing rates to the statutory level or to 50 percent above the statutory level, as proposed by the two commissioners who found a threat of injury generally would not raise the prices of imported structural marble and travertine to the level of prices offered by domestic producers.

We do not agree with this conclusion by the President. The domestic marble finishing industry does not need exact parity in price with for-

eign firms. We only need to be sufficiently close in price to bring other factors into play such as quality of product and maintenance of delivery commitments. The devaluations of the dollar that have taken place in the last two years added to the proposed tariff increase would make the prices of the domestic marble industry competitive again and provide it with the time it needs to meet and overcome the continuing serious injury from these imports.

REDUCTION OF TARIFF ON ROUGH MARBLE BLOCKS

The President's letter further suggested: "The costs of the domestic industry could be reduced and its ability to compete more successfully against imports could be enhanced by eliminating certain customs' duties the industry now pays on blocks and semi-finished structural products of marble and travertine imported for fabrication by U.S. firms and workers." The President stated his intention to send such a legislative proposal to Congress. We would support such a proposal.

We believe, however, that a viable domestic marble sawing and finishing industry can only exist based primarily on domestic quarry production. The price of rough marble blocks will tend to be set by foreign producers to favor finishing in their own countries. Therefore, a reduction in tariffs on foreign rough blocks must be coupled with an increase in tariffs on foreign finished marble products if a period of stability is to be achieved.

INDEPENDENT DOMESTIC FABRICATORS

The President's letter further stated a concern for an estimated 300 independent fabricators should tariffs be raised on finished marble. "Their costs for imported stock would be raised. Since their ability to bid on building projects would be severely limited, it appears possible that increasing tariffs would cause the loss of more jobs among independent fabricators than would be created among the petitioning domestic quarrier-fabricators." We believe that this statement implies that 300 independent fabricators of significant size wholly dependent upon marble production exist which is not true. Also the conclusion drawn is unfair and is not supported by the Tariff Commission's findings.

Page A–13 and A–14 of the report of the Tariff Commission states:

Perhaps as many as 300 independent marble and travertine fabricators currently produce a wide variety of marble and travertine products exclusively from purchased materials of domestic and foreign origin. Almost all are also engaged in producing or marketing other building materials such as tile, slate, and granite. Some of the independent fabricators have large-scale operations, including installation at construction sites, but for the most part they operate small shops, serving only the local market in which they are situated, bidding on construction projects as subcontractors or producing custom articles for individual consumers.

Many years ago, when independent fabricators owned gang saws for cutting marble block, as well as polishing and other finishing equipment to prepare marble products for final end use, they probably accounted for a substantial proportion of the total sales of fabricated marble and travertine. Over the past three decades, however, their number and their share of the total volume of business have declined appreciably as both domestic and foreign quarries have increasingly supplied marble and travertine fabricated in their own mills directly to contractors and other consumers.

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The welfare of "independent fabricators" will not, in our opinion, be adversely affected by tariff increases that will allow the strengthening of the promotion and sales effort of the whole domestic industry. But competition will be enhanced. The Marble Institute of America which is made up of firms representing the full spectrum of the domestic marble industry from quarrying to installation has been continuously supportive of efforts to rejuvenate the domestic industry through tariff changes.

THE PARADOX OF THE DOMESTIC MARBLE INDUSTRY

The domestic marble industry now faces a paradox. Two commissioners of the U.S. Tariff Commission, half of those voting, have found the domestic marble industry "at a most critical point in its history" and "if serious injury is to be prevented, the domestic industry needs relief." These commissioners recommend adjustment assistance and tariff rate increases as provided in the Trade Expansion Act of 1962.

The President in reviewing the Tariff Commission report has found "that the domestic industry is threatened with serious injury" and has provided for adjustment assistance to be applied for and granted according to law. But he refuses to impose tariff increases for the stated reason: "it is difficult to justify increases in tariff protection as a remedy since the maximum possible increase in tariff will not appreciably affect the ability of the domestic industry to compete with imports."

As stated earlier, we do not agree with the President's conclusion.

CONCLUSION

Finally, the welfare of our industry is at stake. Our last resort is to appeal to Congress to set right an untenable situation. We do not feel that present legislation has been administered as intended by Congress.

If no action is taken by Congress to set right this situation we can only assume your satisfaction with the way the executive branch has administered the law.

However, we shudder to consider the thought of further latitude being given in trade negotiations to the President without clear guidelines by Congress which assure the jobs of American workers and the viability of American firms.

Thank you.

The CHAIRMAN. We thank you, Mr. Hood.

Are there questions?

Mr. Burke.

Mr. BURKE. Are you people slowly coming around to the opinion that some people in this Government feel that the marble industry is expendable?

Mr. HOOD. We have had that opinion for some time. I think that the negotiations in the Kennedy round basically indicated that with respect to the domestic marble industry and other similar industries.

Mr. BURKE. We have the Quincy quarries up in my district, and I know that most of them are being abandoned today. They are talking

a lot about man training and job training. The problem they have up there is that they can't even afford to put apprentices into this field of cutting granite in the quarries. They are almost forced to hire overaged people from Italy and other countries who come over here to continue the work.

So that I agree with you that these industries, the marble and the granite industry, are dying and this Government is letting them die. It is letting them die right before their eyes.

The unfortunate part of my district is that the granite industry has been dying for about 20 years, but the trade bill kind of delivered the death blow to them. We have lost the shoe industry. We have lost the granite industry. We have lost the textile industry, and now we are about to lose the electronic industry. I was wondering just how many industries in this country can be expendable before somebody wakes up around here and finds out that we have exported all of our industries and jobs.

I want to commend you for your statement and bringing us the problems of the marble industry.

Mr. HOOD. Thank you.

The CHAIRMAN. Are there any further questions?

Mr. Chamberlain.

Mr. CHAMBERLAIN. Mr. Chairman, I would like to inquire of the witness.

I have been scanning your statement again. Could you tell us the dollar value of your annual production over the past few years?

Mr. HOOD. I have consulted the two gentlemen with me here. Actually, we do not have any continuing apparatus to assemble statistical data on our industry. That has been one of our problems. I think perhaps that this is a problem for other small industries as well. When we prepared the testimony for the Tariff Commission it was necessary for us to hire outside assistance, and to work very diligently for almost a year to pull together adequate data for the Tariff Commission.

I believe that about 3 years ago the total volume of the industry was in the neighborhood of $24 million.

Mr. CHAMBERLAIN. Could you give us an indication of how many employees are employed in domestic production of marble and travertine?

Mr. HOOD. In the producing end of the industry about 3 years ago we were in the neighborhood of 1,850 individuals. It has declined since then.

Mr. CHAMBERLAIN. I have one other question.

With reference to your statement where you indicate that you are using obsolete machinery, what are you talking about in terms of modernization? Is that a tremendously large amount or a relatively small amount, or what?

Mr. HOOD. We are talking in terms of a relatively large amount of money. I wouldn't be able to put a finger on it for the entire industry. I am executive vice president of Vermont Marble Co., and in our case I am sure it would cost us in the neighborhood of $1 million to properly update and equip ourselves from quarrying all the way through finishing.

Mr. CHAMBERLAIN. I have one final question, Mr. Chairman.

Again, reference was made somewhere in your statement to the aid

that was given to foreign operators during the postwar period. Do you have any dollar value on that aid?

Mr. HOOD. No, we do not, and in a sense this is speculation. We do know though that substantial funds in some foreign countries, and especially Italy, funds that were sent over there as part of the Marshall plan went into revitalizing the marble industry.

Mr. CHAMBERLAIN. Thank you, Mr. Chairman.

I appreciate your statement, gentlemen.

The CHAIRMAN. Mr. Burleson will inquire.

Mr. BURLESON. Mr. Hood, you have made reference to Italy as being the producer of marble. Canada is an exporter of marble, is it not?

Mr. HOOD. No. Canada does not have any substantial or appreciable quantities of marble.

Mr. BURLESON. What other sources of imports are there?

Mr. HOOD. Other than Italy, the major sources at the present time are Spain, Portugal, Greece, Mexico, primarily concentrated in Europe. There are other sources in the world, but developed only to a limited capacity.

Mr. BURLESON. And Italy accounts for about what percentage of the imports?

Mr. HOOD. A very substantial percentage. I am sorry. I can't give you an exact percentage. Italy is in the position actually of attracting marbles from all over the world, and fabricating them there in their various marble producing and quarrying areas.

Mr. BURLESON. They import the raw material and refine it in blocks?

Mr. HOOD. That is correct.

Mr. BURLESON. How has the Buy American Act affected you where the Government is involved in this country?

Mr. HOOD. The Buy American Act has assisted us in some specific situations, but I would say to a very limited extent.

Mr. BURLESON. I suppose that brick is in some ways competitive with marble, but where does brick enter into this problem?

Mr. HOOD. Well, I know you are going to have a gentleman here to speak for one of the brick manufacturing groups. We in the marble industry, of course, do compete with brick and other types of stone, including limestone, and in recent years with metal and glass and concrete. So that from our point of view the brick manufacturers are manufacturers of a competitive material.

Mr. BURLESON. And they will be here to present their case I assume.

Mr. HOOD. Yes.

Mr. BURLESON. Thank you.

Thank you, Mr. Chairman.

Mr. BURKE [presiding]. Mr. Duncan will inquire.

Mr. DUNCAN. Thank you, Mr. Chairman.

Mr. Hood, what is the state of the marble reserves in this country? Do we have adequate reserves?

Mr. HOOD. We have extremely adequate reserves of certain types of marble. Mr. Duncan, I know you are familiar with east Tennessee.

Mr. DUNCAN. Yes.

Mr. HOOD. There are fine marble reserves in east Tennessee that are undeveloped, unused. Some of your quarries are being operated at the present time to a very limited extent compared with what has been done historically.

Mr. DUNCAN. We have had a number of marble mills actually close down, haven't we?

Mr. HOOD. That is correct.

Mr. DUNCAN. I presume that is true everywhere. How many marble mills do we have in this country today?

Mr. HOOD. Are you speaking of sawing mills?

Mr. DUNCAN. Yes.

Mr. HOOD. There are marble mills active in Georgia, in North Georgia. There are marble mills active in your area. We have marble mills active in Vermont. There is still some mill activity in Carthage, Mo. I believe that except for perhaps one or two saws in the New York City area, and perhaps in the west coast, that is the limit of milling activity today. I might say that the milling activity is substantially reduced from what it was.

Mr. DUNCAN. What is the depletion allowance on marble?

Mr. HOOD. I will turn to the counsel on this. He is more familiar with depletion allowance than I am.

Mr. DENNIS. The depletion allowance on structural and ornamental marble is 14 percent. It is not on the order of oil.

Mr. DUNCAN. I can't really quite understand on page 7 of your statement where you indicate that "Available domestic marble sawing and finishing industry can only exist based primarily on domestic quarry production", but then you go on to request that the tariff be lowered. Wouldn't that have some effect upon the quarry operations?

Mr. HOOD. Yes, except that domestic marbles are unique as are all marbles around the world. Each quarry produces a little bit different stone. In promoting marble for use among architects and owners, we have found it necessary to promote a relatively wide variety of color and marking in stone and in order for us to provide the wide variety that the design industry has wanted in the past we have had to include foreign produced stone in a single building contract where we include also domestic stone, and we bring the stone in block form into our facilities and fabricate the foreign stone right along with our own domestic stone. We have found this to be necessary in merchandising marble as a building product.

Mr. DUNCAN. I was in New York recently and talked to a construction building superintendent on a construction job. He indicated that at times there was evidence of a conspiracy to not use domestic marble.

Mr. HOOD. I am not familiar with the details of the New York City situation, but there are labor agreements I believe in existence there that require a certain amount of work to be performed by workers in the New York City area on stone to be installed in that area.

Mr. DUNCAN. They prefer the Italian mable.

Mr. HOOD. I am sorry?

Mr. DUNCAN. What I was referring to is a conspiracy really, if you might call it a conspiracy, that the marble setters would prefer to set the Italian marble.

Mr. HOOD. I wouldn't believe that to be true personally, butI don't know.

Mr. DUNCAN. This man happened to be construction engineer on a construction job, and said it did exist.

Mr. HOOD. He probably knows more about that situation than I.

Mr. DUNCAN. It isn't easier to work with Italian marble than it is with domestic marble is it?

Mr. HOOD. I would say definitely not.

Mr. DUNCAN. Do we export any marble today?

Mr. HOOD. We export a very limited amount of marble today. Our firm was very fortunate recently to export some of our stone to Japan, an extremely unusual occurrence, I think prompted perhaps by some of the things that have happened in the world in the last six months to a year.

Mr. DUNCAN. Thank you. My time is up. Thank you very much.

Mr. BURKE. Are there inquiries on this side?

Mr. Brotzman.

Mr. BROTZMAN. I have just one follow up question. Is the quality of our marble comparable to that that we find in imports?

Mr. HOOD. I would say definitely yes, and superior to many of the foreign stones.

Mr. BROTZMAN. The largest differential in price apparently is labor. Is that the point that you wish to make?

Mr. HOOD. Yes, we are a labor intensive industry. We are not a technology intensive industry, although technology is very important.

Mr. BROTZMAN. I have one more question.

Are they still producing marble out in Colorado? Is there any coming from the West? I know that we did produce marble in Colorado for a while, but I wondered if there was any production there.

Mr. HOOD. There hasn't been any production from Marble, Colo. since the 1940's. There may be some other stones in very small quantities produced in Colorado. I believe there is some small quantity of travertine coming out of Colorado.

Mr. BROTZMAN. All right.

Thank you very much.

Mr. BURKE. Mr. Karth.

Mr. KARTH. Thank you, Mr. Chairman.

In all the years that the marble industry had no foreign competition why is it that they did not advance technologically? Why didn't you modernize your plant and equipment so that today you would be competitive with foreign imports?

Mr. HOOD. I would say that substantial sums of money were put into technological development of the marble industry right after World War II. Most stone firms were out of the stone business during World War II, and coming out of World War II it was necessary to re-equip and develop new equipment for the industry. This took place all during the decade of the 50's into the early part of the decade of the 1960's. Then we were faced with the Kennedy round, the Trade Expansion Act of 1962, and in essence we had a noose put around our neck in the form of an incremental tariff reduction to be phased over a period of 5 years.

With that sort of an investment climate, and the problems associated with it, investment in technological development and new equipment just wasn't possible. Just to summarize, our problem technically is one that comes directly out of the problem created by the Kennedy round.

Mr. KARTH. I am not sure I understand, because if you advanced technologically in plant and equipment during the 1950's and early

1960's, it seems to me that you don't have to modernize every 10 years, do you? One of the points you make in your testimony is that you operate with a good deal of obsolete equipment and, therefore, you are a labor intensive industry.

Mr. HOOD. The nature of the industry itself is labor intensive. Just to cite an example, the development of diamond studded tools to work stone is something that has been developed in the 1960's. It is an area where our European competitors are just way ahead of us.

Mr. KARTH. And you believe that if we did have some import duties, or quotas, that that would give you the necessary finance, or make them available to you so that you would modernize and purchase the new and necessary technologically advanced equipment. Is that what you are saying?

Mr. HOOD. That is what I am saying in the testimony, that we need this period of stability in order to justify the type of technological improvement that is wanted to get back into a viable business.

Mr. KARTH. All right. I think I understand your position.

One of the things that I noticed frequently throughout these hearings is that the older the industry is the more reluctant they are to modernize, the more reluctant they have been to advance technologically, and I hope that that is not true in your case. I hope that it has not been a matter of reluctance.

Mr. HOOD. I think that the reluctance doesn't come from any lack of ideas or desire. I tried to make that point in my written testimony. The reluctance comes from the fact that you just can't justify the kind of financial expenditures required to improve technically in the face of a very adverse investment climate.

Mr. KARTH. When you saw this foreign competition coming, you were unable financially to advance technologically, is that correct?

Mr. HOOD. The foreign competition was coming. We saw it. Then we were hit with the Kennedy round and this just sort of took our feet right out from under us.

Mr. KARTH. Thank you very much.

Thank you, Mr. Chairman.

Mr. BURKE. Mr. Archer is recognized.

Mr. ARCHER. Mr. Hood, what percentage of the cost of marble is in labor?

Mr. HOOD. We have a Scanlon plan in Vermont which calculates each month the labor value of production, and it runs between 55 and 60 percent.

Mr. ARCHER. This is in your quarried stone, your raw stone?

Mr. HOOD. This includes everything from the quarrying stage through finished and shipped out the door.

Mr. ARCHER. This includes all of your fabricating and processing into your finished product also?

Mr. HOOD. Correct.

Mr. ARCHER. If you were to separate it out on a basis of quarried blocks, what percentage would it be?

Mr. HOOD. I don't have a figure here, but I would say it would be relatively low, in the neighborhood of 5–10 percent.

Mr. ARCHER. So when you are competing then with raw stone that is coming into this country, say, Italian, you are actually processing it yourself, then the labor factor is not a big factor?

Mr. HOOD. It is not an important competitive problem, no.

Mr. ARCHER. Are environmental requirements and restrictions today a problem for you costwise in your industry?

Mr. HOOD. Yes, they are. I hestitated to put that remark in my statement to this group, but they certainly are a problem. We are faced as every industry in the United States today is with increasingly tight environmental regulation. I think each State is a little different. In Vermont we have some legislation which is quite restrictive. We are also, of course, faced with the new safety regulations that affect us all the way from quarrying through our finishing operations.

Mr. ARCHER. Do you have any rough rule of thumb as to what the percentage of your cost is now in environmental effort?

Mr. HOOD. I am sorry. I don't really have a reliable figure, but it certainly would be in the neighborhood of 2 or 3 percent.

Mr. ARCHER. What is the average wage rate today in your industry in the United States?

Mr. HOOD. Again I find it easier to speak for my own firm, and I think we are probably fairly representative. Our average wage rate is in the neighborhood of $3 an hour.

Mr. ARCHER. Do you know offhand what percentage of our domestic consumption is now foreign produced?

Mr. HOOD. I took a figure from your briefing paper No. 2 and quoted it in my statement. In the year 1972 imports represented 59 percent of domestic consumption.

Mr. ARCHER. Is this on a dollar basis?

Mr. HOOD. It is on a dollar basis.

Mr. ARCHER. Thank you very much, Mr. Hood.

Mr. BURKE. Are there other questions?

Mr. CONABLE. Mr. Chairman.

Mr. BURKE. Mr. Conable.

Mr. CONABLE. Aren't you having a serious problem attracting labor at this point?

Mr. HOOD. Yes, we are. We are having a very serious time.

Mr. CONABLE. Your labor force is quite elderly, isn't it?

Mr. HOOD. Our labor force is elderly, and because of the decline in availability of employment many of our older people have retired early. In fact, many of the workers whom you find have applied for adjustment assistance are workers in the age bracket of 65 to 70 who felt they needed adjustment assistance because of their age and the fact that there wasn't adequate employment.

Mr. CONABLE. What you are describing to us is quite a sick industry. I assume that all these factors enhance each other in making it sicker. Certainly imports are one aspect of your problem. Your trade position is an aspect of your problem, and it has aggravated other existing conditions which have made it difficult for you to continue. As a result, you are in kind of a downward spiral of competitiveness, is that right?

Mr. HOOD. That is correct.

Mr. CONABLE. Thank you.

Mr. BURKE. Actually the Government failed to live up to its promises on adjustment assistance. If adjustment assistance had been forthcoming they could have trained the apprentices and the Government could have helped them out in this area where they could have trained the workers, but this wasn't forthcoming so that the industry was

faced with intense competition and a downward decline of profits and had no way to meet with this problem, is that true?

Mr. HOOD. That is right, Mr. Burke, and actually the procedures required to be followed to prove a case of injury under present legislation are such that it takes a tremendous amount of time.

Mr. BURKE. I know up our way that of course they refer to these adjustment provisions as burial expenses. This is working out certainly in the granite industry in the quarries up my way. The only things they are producing now are headstones. That is their limitation.

I want to thank you on behalf of the committee for your appearance here and for your fine contribution.

Mr. HOOD. Thank you.

Mr. BURKE. Our next witness is Malcolm Swenson, National Building Quarries Association.

We welcome you to the committee. Mr. Swenson. If you will identify yourself and your colleague you may proceed with your testimony.

STATEMENT OF MALCOLM SWENSON, ON BEHALF OF THE NATIONAL BUILDING GRANITE QUARRIES ASSOCIATIONS, INC., ACCOMPANIED BY KENNETH KRUCHTEN, PRESIDENT

Mr. SWENSON. Mr. Chairman, members of the committee, thank you for letting us appear.

I am Malcolm Swenson, president of the John Swenson Granite Co. of Concord, N.H. With me is Mr. Kenneth Kruchten, a vice president of Cold Spring Granite Co. of Cold Spring, Minn. Mr. Kruchten is also president of the National Building Granite Quarries Association, Inc.

Mr. Chairman, I will summarize my statement for your convenience. I understand that the full text will become part of the record.

Mr. BURKE. You may do so, and without objection the entire text will appear in the record.

Mr. SWENSON. Thank you, Mr. Chairman.

We appear on behalf of the nine member companies of the association whose output comprises over 75 percent of the domestic granite produced and employed in the United States in building construction, street paving, and related projects.

Ours is an old American industry; it is rural and relatively small. The average age of the companies we represent is 100 years, and several member companies years ago absorbed the operations or the quarries of even older competitors. Until the impact of foreign granite imports following international trade negotiations in recent years, it was also a relatively stable industry.

Mr. Chairman, our Association's files go back only to the beginning of this century, although we have reason to believe that it was formed before then. We have examined those records and we believe that today marks the very first occasion the granite industry has come to this city to ask for help. We usually come, instead, to build it. Our work is greatly represented on, in and under countless buildings—venerable and modern—in the Nation's Capital, including this one.

However, trade conditions rapidly established in the American market for structural granite since the Kennedy round of international trade negotiations make it highly probable—that is, better than a 50–

50 chance—that granite employed for construction in this or any other American city will no longer be the product of American industry.

During the last 10 years, under current trade agreements, imports of granite ready for installation here—we call it fabricated granite—jumped from 4.5[1] percent to 30.6 percent of the American market. From 1963 to 1972, while the total U.S. sales of building granite doubled, the annual sales of American granite increased 70 percent. Sales of imported building granite, on the other hand, increased 485 percent. Putting it another way, we climbed 1.4 times; imports climbed 13.1 times in a like period. Without swift adjustment in trade regulation, it is evident from known contract awards that such increased growth of imports is going to continue.

To explain how such deep penetration has occurred so swiftly, let me first tell you about our own industry. We are few, but we are intensely competitive. Structural granite is essentially a fashion industry, responsive to architects' daring and innovation—and our own—in color, shape and texture. The inflexible element of competition, of course, is the natural color of each variety of granite. Thus, an architect or builder will specify a color or a range of shades, knowing full well that his choice will adduce bidding from companies which quarry one of those shades and can finish in the specified texture.

American industry is quarrying and fabricating granite today as well as anyone knows how. I honestly believe our technology and our productivity comprise the most efficient commercial application of structural granite in the world. Our investment is not only massive; it is also modern, because we are very competitive, not merely among ourselves, but also with all the other building and surfacing materials currently in the market. Therefore, we have pioneered new systems of quarrying, as well as fabrication, which includes sawing, polishing, cutting and finishing to the dimensions and textures required. We maintain staffs of engineers, researchers and designers. We conduct a running dialogue with universities and consultants in geology, mineralogy and architecture. Our employees are skilled and versatile and are able to produce as broad a variety of shapes and textures as traditional or modern architecture may demand.

Significantly, our quarries and our plant facilities are fully capable of supplying virtually all the needs of the American market. We readily acknowledge that 1 percent of the U.S. market represents occasional demand by architects for rare granite colors not quarried here, but this presents no substantial problem for us.

Granite has survived and competed well. That it is an older, natural building material has not diminished its attraction. We have survived glass, aluminum, concrete and steel, and this competition has but given us incentive to develop new textures, new finishes and new markets.

But now what has happened to those markets? Shortly after the Kennedy round, several companies overseas discovered that the U.S. granite industry was vulnerable to certain advantages at their disposal. Among those, Italian companies are unquestionably the leaders.

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[1] Figures analyzed from IM146 "U.S. Imports of Merchandise for Consumption," U.S. Department of Commerce—1963 through 1972—relative to TSUSA Number 513.7400. Grouped under such number are fabricated items intended for monumental rather than structural use. However, as most foreign monumental granite enters the U.S. in rough, non-fabricated block (TSUSA 513.7100—duty free), the Association believes the proportion of foreign monumental granite tariffed under TSUSA 513.7400 is negligible.

The Italians long have had labor and plant which parallel our own in several respects, almost exclusively applied to the quarrying and fabrication, not of granite, but of marble.

Using those tools long employed in the marble industry, they entered the American structural granite market. Please bear in mind, however, that the swift penetration that ensued had little to do with granite actually quarried in Italy. That is negligible. Instead, the granite is quarried elsewhere in the world, shipped to Carrara and a few minor centers, fabricated on the marble equipment and then forwarded to the United States. Old granite names long familiar to us are now Italian exports surfacing American buildings: "Impala Black"—from South Africa; "Rosa del Salto"—a red from Argentina; "Ubatuba"—a green from Brazil; "Chicoutimi"—a brown from Canada.

Funneling granite from Europe or Africa or Asia or South America—granite that competes with our own shades—through Italy and into the American market has become so successful that in several instances competitors here, using Italian imports, have been able to underbid strong American competition by 30–35 percent—occasionally by as much as 40 percent. Thus, a large building in Los Angeles recently was surfaced with granite quarried in Canada and fabricated in Italy. And a major project in Houston soon will be faced with a pink from Spain, fabricated in Italy and bid so low as to defeat stiff competition from a Texas pink granite quarried less than 200 miles from the job site.

Now what accounts for the difference? We know that it is not the cost of quarrying. With rare exception, rough granite blocks can be quarried more cheaply in the United States than any other country of origin. I have two competitors I would bet on against any other granite quarrying operation in the world—and our own company is rapidly closing the gap.

There are, rather, two elements in Italian costs which make the difference—one obvious, the other not so apparent. Readily identifiable is the cost of fabrication. This translates directly into the price of labor. As I stated before, it has nothing to do with the efficiency of equipment or labor. In fact, for granite work our machinery is far superior. Granite is much harder than marble, yet the Italians are using finishing equipment designed for marble. Often the resulting surfaces are just not up to American standards, in our view. Also, the Italian marble industry is geared to the thin sheets typical of that material, in relatively smaller dimensions. We are equipped to handle a far broader range of dimensions and thicknesses.

And our employees are certainly as productive, and probably far more so than theirs.

We know also that as they have neither a substantial nor varied natural supply, they are required to import and stockpile blocks of varying shades, entailing a considerable investment in inventory. In the U.S., on the other hand, we long ago located our fabrication facilities where nature established our inventory.[1]

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[1] Very recently, however, it has been reported that European investors are negotiating the construction of granite fabrication facilities at African and South American quarries.

Thus the only easily identifiable way that they can beat the already competitive American market is the cost of labor. The average hourly wage in our industry is $5.30, including fringe benefits. The equivalent wage in Italy is $3.12, up recently from $2.60.

The second element which may enhance their position is not so perfectly clear. We have good reason to believe that two of the principal companies exporting from Italy, both of them massive combines not unlike American conglomerates, are favored with some form of subsidization or other assistance, either directly or indirectly, from their government. The possibility of substantial tax remission is present. Both are in fact government operated or government controlled. One, for example, has been in receivership for at least 6 years, yet continues to compete strongly. Another has unaccountably managed to absorb losses of $200 to $300 million in the last fiscal year, yet its representatives bid at lower and lower prices in the United States. The inference of Italian government subsidy may be drawn also from the fact that nearby French facilities, equivalent in terms of production systems and operating costs, are not able to bid at the Italian level in the United States.

Now, what happens when our industrial system clashes with theirs in the free American market?

First of all, Italian exporters concentrate exclusively on the most profitable structural work available for bidding. They seek out jobs entailing a high degree of uniformity in size and shape, requiring the easiest and most repetitive steps in fabrication. Typically, this means large buildings and very large contracts. Yet, while servicing this lucrative part of our market, the jobs they bid require the very least resort to engineers, researchers and designers. I know of no cases where they maintain such staffs. Instead, they do and sell what they can produce most cheaply.

We, on the other hand, are required to maintain a full and versatile range of services and products, lest we lose the confidence of those who buy both our granite and our skill.

In this way, the Italian granite industry is skimming the American market of the big and easy jobs by underbidding U.S. competitors to the hilt. And with each success, the next sale becomes even easier for them. Their penetration is thus progressive, gathering strength at our expense.

For we, just as they, depend upon the major construction projects to keep our momentum. Several big buildings in a single year can make a great difference in the level of employment of our plant capacity. Our foreign competitors know this, just as they know that it is their unique ability to underbid these bread-and-butter jobs that is most devastating to our ability to stay in business.

Already two companies in Maine and one in Pennsylvania have gone out of business. In addition, one in Vermont and another in Minnesota are no longer competing in the structural granite field. Of those open and operating, we believe not more than 66 percent capacity is presently employed. And we fully expect the penetration to deepen with even broader impact upon our labor force, our ability to translate profits into plant capacity—in fact, in our ability to compete at all.

Mr. Chairman, only buildings of this vintage bear witness to the last time in our long history the granite industry faced such dislocation.

Several generations ago, granite was a basic unit of major construction, affording not only the surface strength and rigidity for which it is now employed, but the internal structure and the underpinnings. Indeed, this building [1] itself sits upon a foundation quarried from the Island of Vinalhaven, Maine—a granite, I am proud to say, which is identified with my own company. With that fundamental change from structural to surface use of granite, many companies left the market. Not since that day has the American granite industry faced such a decline in its prospects.

What are our options today? I can tell you one option I believe no member of our association is willing to accept. We are not going to close our fabricating plants and begin to circulate the product of our quarries to Italy and back. I am aware of at least one major company, perhaps there are more, which has been approached with such an offer. That company's answer, through its spokesman, was: "Not in my lifetime." I calculated a bid myself on that basis and was shocked to discover that I could beat my own price. I did not submit that bid, however. As I said at the beginning, Mr. Chairman, we are a rural industry, long affiliated with our communities. We live among the people with whom we work and we have no interest whatsoever in leaving them behind.

For one thing, the result would only be inflationary. Just as was reported in the marble industry, once the foreign exporters gained a powerful position here, they would simply increase their prices to whatever level that position would warrant.

A second option is more appealing: we can continue to fund research, find new designs, improve our own product, and integrate it even more efficiently in American construction methods, although we believe we lead the world in that respect. That course is familiar to us and we prefer it. But that course depends upon a supply of cash flowing from current operations or from other funding sources which have confidence in our ability to profit in the prevailing market.

To help ourselves in that direction, therefore, we are presented with a third option: to seek appropriate changes in present trade barriers in order to improve the prevailing U.S. market for American structural granite. Thus, we are quickly educating ourselves with regard to our rights under the existing laws and under the various bills you have before you. At once we discover that turning to tradition for guidance doesn't help very much. Powerful industries and national groups once wedded to "protection" now call for "free trade." Powerful labor organizations are in the forefront of the fight for strong import quotas and "protection." Both sides claim to support "fair trade." The Tariff Commission seems to have the power to say what is "fair," but the President appears to be asking for more power to say what's "necessary."

Mr. BURKE. Mr. Swenson, I am sorry. We will have to interrupt you. The Committee will have to recess now because of a quorum call.

Mr. VANIK. Mr. Chairman, when will we come back?

Mr. BURKE. Mr. Vanik, we will be back at 2 p.m.

We will recess until 2 p.m., and you may continue your statement at that time.

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[1] The Longworth House Office Buildings.

The committee stands recessed until 2 p.m.

[Whereupon at 12:15 p.m. the committee recessed, to reconvene at 2 p.m.]

AFTERNOON SESSION

Mr. BURLESON [presiding]. The committee will come to order.

As I understand, when we adjourned for the lunch period Mr. Swenson was testifying. Mr. Swenson, you had not finished your statement?

Mr. SWENSON. That is correct, Mr. Chairman. May I resume testimony at a convenient breaking point just a couple of paragraphs back?

Mr. BURLESON. Certainly.

What page are you on?

Mr. SWENSON. Page 12 of the summary.

In this uncertain context, we think it wise for a smaller industry such as ours to establish its own perspective, and draw its own conclusions. The first conclusion is that some of the labels in the debate contribute to the confusion. Whether trade is "fair" or "free" is a very subjective matter to somebody. We think it would help, instead, to use the term "managed" trade, which at least describes the system rather than results someone wishes them to be. Isn't that, after all, what the President is asking for in his proposals: the power to "manage" our foreign trade in a way he perceives to be in the Nation's interest—letting others consult their balance sheets to decide whether the resulting trade in their case is freer or fairer?

This, of course, presents the Members of Congress with a grave decision, one I know you approach with respect. For the management authority the President seeks clearly is yours under the Constitution, and the delegation asked for is exceptionally broad. It seems the only practical curb proposed is that he offer the Congress an explanation for his actions. As citizens, we regret this trend deeply. But as citizens who are also businessmen, we conclude that the President is going to need reasonable tools to manage trade in a way calculated to strengthen the country's position both in international commerce and in other aspects of our foreign relations.

We respectfully submit, however, that if you and your fellow Members of Congress agree with that position, then the task before you is at least as difficult and sensitive as would be the case if you delegated no further authority to the President and followed the less efficient course of making all foreign trade decisions yourself. For it will be entirely up to you to define the President's power to manage.

You must establish the procedural framework; you must condition the exercise of authority. We conclude that the President's proposals contain the beginnings of an orderly procedure. They are not perfect. We urge you to approach those proposals aggressively. Any bill which leaves this chamber with your approval must at a minimum assure all industries—especially the smaller ones such as ours—the fairest, fastest, most accessible and transparent system within which to seek import relief. That is, it must be as nearly the ideal as you know how to devise because once it is law, reality and the pressures of foreign commitments will slow the process, and within the range of interpretation you permit, will alter it.

Already, there are hard questions: Even if the Tariff Commission finds that imports have been the primary cause of serious injury or threaten such injury, there is no assurance the President will grant relief, and no practical remedy for his refusal.

Even if relief is granted, it can be revised or reversed at any time without a hearing.

Even if the Secretary of the Treasury concludes that a countervailing duty is warranted, he would be authorized to withhold relief under the vague standard that it would "likely . . . result in significant detriment to the economic interests of the United States."

Even if the injury is clear, the pressures of policy can outweigh the need for relief—including "anticipated multilateral safeguard rules," no matter how remote. That may be a bit like refusing a permit for an ice cream cart because the land is zoned for high-rise.

Are you satisfied that the President's bill provides for sufficient public advice, formal and informal, from industry, Government agencies, labor and consumers, as the President proceeds with negotiations?

Are you satisfied that the bill would result in a closer working relationship between the executive and legislative branches? For example, is there adequate specification—particularly your specification—of what the President's explanation to you must contain after an action, or refusal to act, as the bill contemplates?

Will petitions for relief be handled any more simply than has been the case? Will investigations be undertaken more readily and completed faster?

Above all, will every step in the process be so open that we will be afforded knowledge of the foreign policy considerations affecting our petition—however transient—as fully as we will be expected to present our own case? Or will the framework you establish leave us as little more than an integer in the President's planning, our views duly noted, our own management left in the dark?

It is to Congress that we can look, Mr. Chairman, to say what's "fair"—not what is fair trade, but what is fair procedure in the administration's management of your exclusive powers.

The final conclusion we have drawn, Mr. Chairman, is with regard to the trade management tools to be employed in the future. As between a schedule of tariffs and a system of import quotas, our association unanimously prefers import quotas of foreign structural fabricated granite. Worthwhile proposals are presented in the Burke-Hartke bill. Applying the formula there, imports for the coming year would amount to an average of $2,244,665, or approximately 30 percent of the present level of penetration. This would give the foreign exporter a 16 percent share of the American market, or a ratio of approximately 5.2 to 1.

As an alternative, however, we suggest a more restrictive formula, selecting a scale of years prior to 1969—for example, 1963 to 1967. We offer this suggestion because that period would reflect more accurately the relative positions of American and foreign producers of structural fabricated granite prior to the time an organized effort became evident to take on a major and profitable share of the U.S. market through powerful price competition. Under such a formula, foreign competition would represent 9.8 percent of the market, or a ratio of 9.2 to 1.

Mr. Chairman, I think it should be evident from this testimony that the structural granite industry is seriously considering the third option related earlier: to seek relief from the high level of Italian granite entering the market. Let us make it clear, however, that in our view, we will not be asking our Government to risk a trade war on our behalf or on behalf of a small number of jobs. As far as structural granite is concerned, we are in a trade war now. It was initiated approximately 7 years ago and has been waged effectively from overseas, at our expense, while we have been on the defensive with at least one hand tied behind our backs.

We do not intend for that situation to continue. And, as the art with which we conduct our business is at as high a level as any other American industry, we see no need for it to just disappear—certainly not as our own management decision, hopefully not as anyone else's management decision.

You see, Mr. Chairman, we have no problem with Mr. Kissinger's conviction that this must be the "Year of Europe." But we are equally committed to the proposition that it will also be a year of Cold Spring, Minn.; West Chelmsford, Mass.; North Jay, Maine; Mount Airy, N.C.; Providence, R.I.; Raymond, Calif.; Northfield, Vt.; Redstone, Concord and Milford, N.H.; Elberton, Ga.; Marble Falls, Tex.; Au Sable Forks, N.Y.; Milbank, S. Dak., and Wausau, Wis.

Thank you very much for this opportunity to testify and for your kind attention.

Mr. BURLESON. Thank you for a very interesting statement.

Mr. Ullman, do you have any questions?

Mr. ULLMAN. No.

Mr. BURLESON. I can't let the opportunity pass without saying to my colleague, before the reapportionment Marble Falls was at one time in my district and I know something of that area. I want to ask this question which I asked of witnesses who preceded you. Where applicable, how has the Buy American Act affected your industry?

Mr. SWENSON. The Buy American Act has to a degree helped our industry, allowing us to have the opportunity to furnish granite for some Federal buildings, although it is limited. I would have to mention that on one occasion an Italian granite manufacturer whom I know mentioned to me that he was pleased to see Federal work coming out for bids in the United States because that was our portion of the market and the rest of the market was his. That was the view from Italy.

Ken, would you like to respond to part of that?

Mr. KRUCHTEN. I think I would like to add to that statement, Malcolm, that the original intent of Buy America, as I see it, was to have public money spent within our country. Now I would like to suggest for your considered judgment a change in this law to say "Federal buildings or buildings funded with Federal money," whether it be loan guarantees or whatever. They are in fact using Federal money. The amount might be considered as another way of assuring some of the domestic industry some business, instead of the relatively small amount, which I believe is now six percent, although perhaps it was raised to some other figure. However, these things need more thought than my quick statement, I am sure.

Mr. ULLMAN. Mr. Chairman?

Mr. BURLESON. Mr. Ullman.

Mr. ULLMAN. What is the price differential on your material as against imported?

Mr. KRUCHTEN. I would say that is a very difficult question to answer with absolute assurance that I am being factual. Each construction job presents different costing problems. On a percentage basis, like work for like work, as Mr. Swenson's testimony would indicate, it would probably run 30 to 35 percent a lot of the time. Granite is something that you don't hold up and say how much is this. There are many different considerations as to type of granite, type of job and other considerations, but it is about a 30 to 35 percent problem as far as our visits with each other, who are partners here today, but competitors when we leave here today. We don't exactly tell each other everything we do.

Mr. ULLMAN. What is the main cost differential factor?

Mr. SWENSON. The principal factor that we can isolate between United States granite production and Italian granite production would be the cost of labor. We, for instance, have an access to the cost of rough granite blocks. We have access to our own costs and there is to some degree a world market in rough granite blocks and we know how much the Italians pay. It is quite a bit more than we have to pay for blocks ourselves.

This would leave the greatest factor, the cost of labor. Although we feel that the differential in labor cost does not fully explain the pricing problems we are having, and this makes us all the more suspicious of subsidy.

Mr. BURLESON. Thank you, gentlemen.

The next witness is Mr. Don Halsell of the Brick Institute of Texas.

Mr. Halsell, we are glad to have you. Make any introductory remarks you wish and proceed.

STATEMENT OF DON HALSELL, PRESIDENT, BRICK INSTITUTE OF TEXAS, ACCOMPANIED BY RICHARD OTTERSON, EXECUTIVE DIRECTOR, BRICK INSTITUTE OF AMERICA

Mr. HALSELL. Mr. Chairman, members and counsel, I, along with those I represent, wish to thank the Committee on Ways and Means, and also Congressman Omar Burleson and Congressman Bill Archer who has helped with some of our problems, for this opportunity to express our opinions on foreign trade and tariff as it affects the brick industry of the Southwest and of our Nation.

My name is Don Halsell. I am president of the Brick Institute of Texas. Keene, Tex. We are affiliated with the Brick Institute of America, McLean, Va.

Mr. Chairman, I would like to introduce to the committee, Mr. Richard Otterson, executive director of the Brick Institute of America. We represent 126 clay brick manufacturing companies throughout the Nation. We realize this is a small industry by comparison with some of the industrial giants of our Nation. In the building and construction industry, however, we are a very important division in that we manufacture quality clay brick to build schools, churches, hospitals, commercial buildings and housing for which there is such a demand.

Our problems with reference to foreign trade and tariff are these:

INEQUITABLE TRADE

Canada.—If an Ohio, Pennsylvania, Illinois, Texas or any other manufacturer of clay brick makes a sale in Canada, that brick will have attached a 10 percent tariff. For example, if this brick—going from the United States to Canada—sells for $80 per thousand a tariff of $8 per thousand is attached by the Canadian Government to the U.S. seller of that brick. On the other hand, if a Canadian brick manufacturer sells brick in the United States, no matter what the cost per thousand, there is a 50 cents per thousand tariff assessed by our Government.

The Brick Institute of America has good rapport with our Canadian friends; we exchange technical information and work together on various projects. There does, however, seem to be a gross injustice when the Canadian Government will charge 10 percent of the cost of imported brick and our Government's tariff on their brick is only 50 cents per thousand.

This percentage difference reminds me of the Texas businessman who came to his high school class reunion in a long black Cadillac. It was obvious to his classmates that he had done quite well financially. When asked about his success, he said, "Well, I married a beautiful girl whose father raises beef cattle. We found that we could produce and serve these delicious Rib-eye steaks for $2 apiece. So I built a modern restaurant on the Interstate and sold these steaks for $6 apiece. Now boys, I've been blessed—I'm not a greedy individual—I've always been satisfied with this 4 percent."

It seems to me, Mr. Chairman, there is a possibility of our Government's being too generous on the subject of foreign trade and tariffs—Maybe our percentages are somewhat confused.

Mexico.—Let's move to our southern neighbors concerning the import of brick.

It is impossible to export American brick to Mexico. A request was made by an American brick manufacturer to display his brick and tile in the U.S. Trade Center in Mexico City. I am quoting from an April 12, 1972 letter from Mr. John Rein III, Director of the U.S. Trade Center in Mexico City in reply to this request:

> I was pleased to receive your letter of April 3 requesting information regarding the display of (your) brick and tile in the U.S. Trade Center in Mexico City.
>
> Although we would welcome your participation in our "Privately Sponsored Exhibition Program", we have been informed by the American Embassy in Mexico City that your products, both brick and tile, would not receive the necessary license for importation into Mexico. It is the policy of the Mexican Government to restrict the importation of those items similar or substitutable by our items produced in Mexico. Therefore, promotion of your products for immediate importation into Mexico would be useless. However, if you would possibly be interested in seeking a joint venture or a license arrangement with a local Mexican firm, we could mount an exhibition of your products with this market objective in mind.

What this really means is that as long as Mexico makes a product, Mexico does not permit competition from another country, unless you wish to go into business with a Mexican citizen—giving him the advantage, I assume, of 51 percent of your business.

There is no limit to the number of brick Mexico may export to the United States. There are no quality standards for Mexican brick imported into the United States. I understand that foreign automobiles,

steel, cement and other imported materials and products must meet certain regulations and standards enforced by various governmental agencies. Why not brick?

There is a testing laboratory in New Orleans that tests Mexican brick for classification, but not for quality.

Last year American brick makers manufactured 8.4 billion brick. From a three-month study I made personally in the last three months of 1971 of Mexican imported brick along the Texas border, plus figures furnished to me on Canadian imports, these imports represent approximately 10–12 percent of brick produced in the United States.

Of the 75 operations along the Rio Grande on the Mexican side, it can be said that they dump about the same amount of brick into Texas and Louisiana as the manufacturers of those States make and sell in their own States.

I have found Mexican brick 150 miles in the interior of Mexico, near Monterrey, being trucked north of Oklahoma City, more than 750 miles. These brick meet no standards, our government receives little, or no tariff, and there are no limits on quality and quantity. This material goes as far north as Denver, as far east as Memphis, as far west as New Mexico and millions upon millions are dumped into the States of Louisiana and Texas, which is certainly unfair to brick makers of those States. I am sure southern California gets its share also.

Mexican-owned trucks, licensed in Texas, traveling on State and Federal highways, burn Mexican diesel at 10–12 cents per gallon and in many cases don't pay appropriate fuel tax. In some cases they avoid State sales tax, peddling Mexican substandard brick off the back of a semi-trailer truck in housing projects like you would sell watermelons in the summertime.

We as an industry have been in contact with the various governmental agencies which have some control over importation of brick. These agencies are handicapped in enforcing regulations because of overlapping responsibilities, inadequate foreign trade and tariff regulations and in some cases, a confused interpretation of existing laws—which have direct results of crushing American industry.

I had a member manufacturer in west Texas tell me the other day that he called the employment commission for a couple of workers. He was sent two Mexican nationals. He asked me what I thought about that. I told him, "Well, we both know it's against the Immigration laws, but maybe the Mexican Government has passed a law on us we don't know about."

RECOMMENDATIONS

Regulation of tariff.—That authority be given to the President to regulate tariff on imported brick to make imports more competitive with U.S. business.

Quality and quantity control.—That the quality and quantity of imported brick should be regulated.

Border enforcement.—That a more realistic approach should be maintained at the border crossings to enforce the control present laws with reference to imported brick.

In closing, I would like to demonstrate the quality of Mexican substandard imported brick, of which hundreds of millions are sold each year in this country to U.S. consumers.

I have one of these bricks here. I would like to take my pocket knife and show you how you can cut on their brick and literally cut it away. You can take a coin and scrape it. Or you can even go like this.

[Illustrating by biting brick.]

Mr. BURLESON. Mr. Halsell, I am glad you didn't ask members of this Committee to do that.

Mr. HALSELL. We want to be friends with Mexico and Canada and we don't think we are asking for anything unreasonable. We would like to be put in the same ball game with them. We are not trying to hinder foreign trade. We don't want to stop Mexican or Canadian imports but we would like for some changes to be made. We will leave in the committee room a little colored brochure that might help with this presentation and I will leave them in the back.

Mr. BURLESON. Thank you.

Mr. SCHNEEBELI. I would observe only that you are a martyr for your business cause. Would it be possible for you to furnish us for the record the amount of imports from Mexico and Canada and the reverse flow? Is it possible to get that information for the year?

I realize we send nothing to Mexico but we might send some to Canada.

Mr. HALSELL. I don't know how valid the information would be.

Mr. SCHNEEBELI. I thought maybe your Institute might have it.

Mr. HALSELL. We have some statistics. I can't tell you the exact number.

Mr. SCHNEEBELI. If you can give us some relative comparisons.

Mr. HALSELL. I know where there is over 500 million coming in. I can tell you what plants those are from.

Mr. SCHNEEBELI. If you can give us some information it would be helpful.

Mr. WAGGONNER [presiding]. Thank you for your testimony, Mr. Halsell.

Mr. HALSELL. Thank you.

[The following additional material was received for the record:]

BRICK INSTITUTE OF TEXAS,
Keene, Tex., June 4, 1973.

Mr. JOHN M. MARTIN, Jr.,
Chief Counsel, U.S. House of Representatives,
Committee on Ways and Means, Washington, D.C.

DEAR MR. MARTIN: Thank you for your May 31, 1973 letter of instruction transmitting a copy of transcript of my May 30 testimony presented to the Committee on Ways and Means on the subject of trade reform.

Because of the 10-minute time limit allotted to me and the crowded conditions of the hearings, I would like the following comments incorporated into my transcript of testimony.

RECOMMENDATIONS

Under Regulation of Tariff, with regard to Canada, we believe the *same* tariff or regulations should apply to both countries. We feel it is very unfair to charge Canada a tariff which is less than the tariff Canada imposes on the United States, with regard to clay brick and tile.

QUALITY AND QUANTITY CONTROL

We believe brick from Canada and Mexico should meet the same American Society for Testing and Material quality standards as U.S. manufacturers meet. I'm sure Canada meets these standards, but I know Mexico does not. Mexico has a tariff barrier, or embargo, on U.S. brick and tile going into Mexico. The U.S. should put the same embargo on Mexican brick coming to the U.S. as Mexico puts

on U.S. brick going to Mexico. Also, our government should have the options of curtailing Mexican imports of brick when U.S. business is off and there is a surplus of U.S. clay brick; this goes for Canada too. Also when U.S. business is booming and U.S. manufacturers cannot meet the construction needs of the Nation, the government should control the *amount* and *quality* of brick imports as long as Canada & Mexico are governed by the same regulations as to the U.S. with reference to tariffs, embargoes, etc.

Plants in Texas go out of business (17 in the last 7 years) because of the continued threat of fly-by-night creek-bed, river-bank. Mexican brick operations implemented overnight. Some plants fire their brick with mesquite wood, old tires, batteries, cow dung. Of course the better plants fire with natural gas and diesel. A U.S. businessman who wants to build a modest, modern brick plant better have about $3 million available. From $3–5 thousand can put a moderate Mexican-type junker plant into operation.

BORDER ENFORCEMENT

I would suggest the U.S. Treasury ask those in the brick industry to assist them in regulation making. For example, there is confusion as to interpretation of the U.S. Custom rules and regulations. Most Mexican brick fall under "earthen ware." This is the same category as a clay flower pot. Brick should meet standards other than those for a flower pot.

U.S. Customs officials usually cannot tell the difference in a true ceramic fused clay brick and a blob of warmed-over sand (like the so-called brick I bit the corner from at the hearing). That brick was from a large apartment complex of, I estimate, 300,000 brick in Austin, Texas.

The U.S. government should keep reliable statistics on brick imports. They do not. The U.S. Treasury regulations state that unless the load of brick is worth over $250, there is no record kept of numbers. This is unthinkable. Haulers, importers and those whose business it is in many cases will falsify "bills of lading" to eliminate tariff (if any would be charged). There is confusion in the meaning of a "decorated brick." Customs officials decisions vary widely.

The place to stop the unreasonable foreign trade as it pertains to brick is at the ports of entry. This involves government agencies of ICC, Transportation, U.S. Customs, U.S. Treasury and Immigration. In my opinion, our U.S. government cannot continue to be the "Welfare Dept. for the World."

IN ANSWER TO CONGRESSMAN SCHNEEBELI OF PENNSYLVANIA

I have included a number of graphs and statistical information compiled by personnel from the Brick Institute of America. This information was taken from U.S. statistics which does not represent the true picture because of faulty rules governing the gathering of these statistics. We send no brick to Mexico. I do not know the Canadian export figures of brick to the U.S.

Valid statistics on Mexican border production are listed by plant. We know the 442,600,000 production figure has increased to over 500,000,000. New plants have been added in Matamoros, Rio Bravo and near Falcon Reservoir with the plants already in production adding considerably to their output.

I would like to call to the attention of Congressman Schneebeli, that without Mexican imports, Texas brick makers could sell all their production in Texas—without shipping north.

Mr. Martin, I do appreciate the opportunity to add these remarks and statistics to my testimony.

I can assure you the brick industry of this Nation does not plan a scheme of unfairness to Canada or Mexico, but it is time to work together with honesty toward our relationships and fair trade practices. The U.S. has given the advantage to others too long.

Please let it be known, we of the Brick Industry of Texas and the Brick Institute of America stand ready to assist our policy makers in a most equitable "plan of action" to be implemented as to foreign trade and tariff, as it pertains to the brick industry.

Sincerely,

DON HALSELL,
President.

Enclosures.

SECTION IV

STATISTICS ON U.S. IMPORTED BRICK

1. U.S. import statistics for brick

The following tables and graphs show the actual amount of brick imported into the U.S. as reported by the Department of Commerce, Social and Economic Statistics Administration, Bureau of the Census.

Table 3 shows the value of total brick imports during 1971 by exporting country, as reported under SIC Classification 3151.

Table 4 shows a historical breakdown of both glazed and unglazed brick imports from 1964 through 1971. These data are presented in both quantity (in 1,000's) and in dollar ($) valuation, as reported under TSUSA item number 532.11 and 532.14.

Data presented in Table 4 pertaining to Mexican imports is summarized in Table 5, Imported Mexican Brick by TSUSA item number, and shown graphically in Illustration 2.

Illustration 3 compares the trend in imported Mexican brick with that of the Tariff rate on such merchandise.

2. Mexican export statistics for brick

The Mexican Governmental agency that is the counterpart of the U.S. Department of Commerce, Bureau of the Census, is the Secretary of Industry and Commerce, Director General of Statistics. This agency publishes annually all official statistics on Mexican imports and exports. Data has been obtained on Mexican exports of brick to the U.S. for comparison purposes. It should be noted that Mexico presents this data under its own Tariff nomenclature. Thus, the Mexican class into which brick falls will not necessarily contain the exact same items of merchandise as does the TSUSA Item 5321100.

This Mexican data on brick exported to the U.S. is presented in Table 6. Note that Mexican data is presented in terms of kilograms and pesos. Transposing these values into number of brick and dollars yields the information presented in Table 7.

A comparison of U.S. import statistics and Mexican export statistics for essentially the same product (brick) being transported from Mexico to the U.S. is shown in Illustration 4.

Table 3.—U.S. imported brick by exporting country during 1971 by SIC classification

[3251 XB 00 ceramic bricks, construction material and tile except floor and wall tile]

	General imports and imports for consumption
Canada	$1,450,644
Mexico	2,201,528
Dominican Republic	3,634
Venezuela	780
United Kingdom	27,584
Ireland	1,866
Netherlands	4,261
Belgium	21,956
France	12,169
West Germany	253,739
Spain	26,769
Portugal	2,221
Italy	6,683
Thailand	907
China (Taiwan)	9,395
Japan	70,224
Total	4,094,360

Source: Publication 1A 276. U.S. Imports for Consumption and General Imports, SIC-Based 8-Digit Product Code by Country of Origin, U.S. Department of Commerce, Bureau of Census.

TABLE 4.—U.S. IMPORTED BRICK BY EXPORTING COUNTRY, FROM 1964 TO 1971, UNDER TSUSA CLASSIFICATION (FROM FT 246 TSUSA COMMODITY BY COUNTRY)

	1964		1965		1966		1967	
	Net quantity (millions)	Amount	Quantity (millions)	Amount	Quantity (millions)	Amount	Quantity (millions)	Amount
5321100 ceramic bricks not coated with engobe, glaze or enamel:								
Canada	7,351	$473,549	9,413	$700,097	9,889	$860,421	10,481	$892,188
Mexico	12,020	299,480	779,578	147,620	3,735	134,331	3,276	115,651
Jamaica	65	3,992						
Dominican Republic	5	260			45	3,461		
Denmark	180	15,897						
West Germany								
Japan								
Belgium								
Spain								
Other countries			8	546	3	656	7	821
Total	19,621	793,178	788,999	848,263	13,672	998,869	13,764	1,008,660
33214 ceramic bricks coated with engobe, etc.:								
Canada	78,746	9,164			13	2,512	21	2,326
Mexico	836	19,916	68	2,175				
Other countries			4	416	13	260		
Total	79,582	29,080	72	2,591	26	2,772	21	2,326

	1968		1969		1970		1971	
	Net quantity (millions)	Amount	Quantity (millions)	Amount	Quantity (millions)	Amount	Quantity (millions)	Amount
5321100 ceramic bricks not coated with engobe, glaze or enamel:								
Canada	12,695	$1,335,258	25,361	$1,361,295	8,678	$1,254,044	9,862	$1,172,274
Mexico	4,493	175,792	11,020	328,424	54,180	1,458,693	74,930	2,194,729
Jamaica								
Dominican Republic			19	1,207			22	1,272
Denmark								
West Germany	9	3,899	5	4,400			51	9,697
Japan	267	3,297					110	5,055
Belgium							24	21,956
Spain							61	3,909
Other countries	13	797			6	372	10	275
Total	17,477	1,519,043	36,405	1,695,326	62,864	2,713,109	85,070	3,408,167
33214 ceramic bricks coated with engobe, etc.:								
Canada	23	2,457	48	3,466	28	2,950	316	6,790
Mexico								
Other countries							1	1,384
Total	23	2,457	48	3,466	28	2,950	317	8,174

Source: U.S. Department of Commerce, Bureau of the Census FT 246 (1964-71), U.S. Imports for Consumption and General Imports.

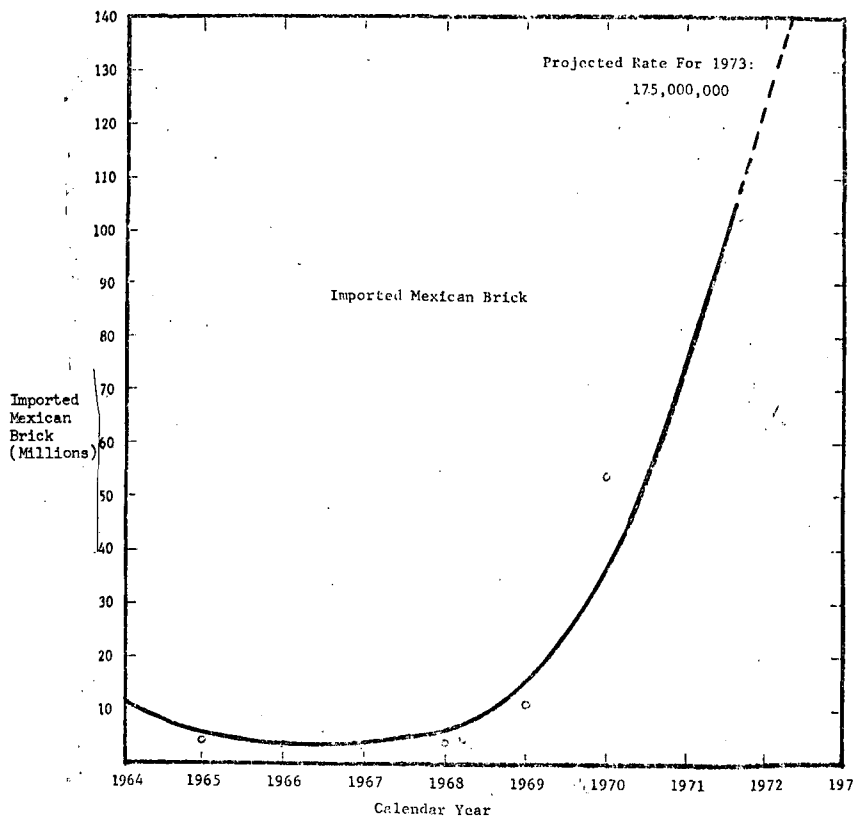
TABLE 5.—U.S. IMPORTED MEXICAN BRICK[1], TSUSA ITEM 5321100 CERAMIC BRICKS, NOT COATED WITH ENGOBE, GLAZE OR ENAMEL

Year	Net quantity (millions)	Valuation	Average value (millions)
1964	12,020	$299,480	$24.90
1965	4,900	147,620	30.15
1966	3,735	134,331	36.00
1967	3,276	115,651	35.30
1968	4,493	175,792	39.15
1969	11,020	328,424	29.80
1970	54,180	1,458,693	26.90
1971	74,930	2,194,729	29.30
1972[2]	103,838	3,427,790	33.10

[1] Figures from U.S. Department of Commerce, Bureau of Census. FT 246 (1964–72).
[2] Projected rate for 1972 based on imports of 51,919,000 units valued at $1,713,895 from January to June 1972.

ILLUSTRATION 2

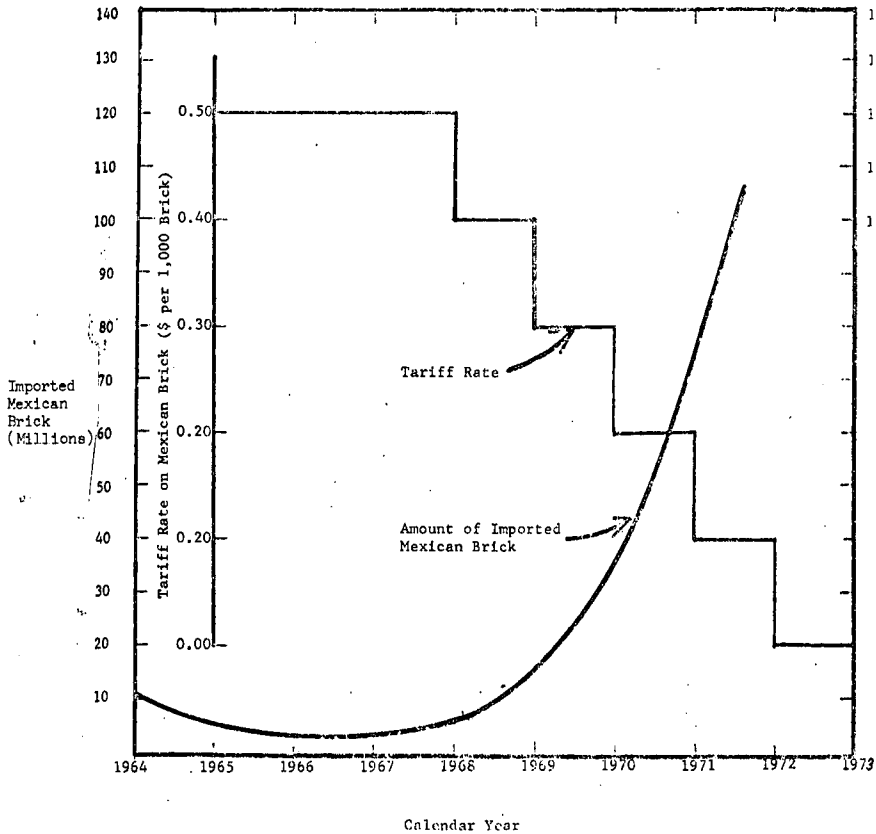
(Imported Mexican brick 1964–72 as reported by U.S. Department of Commerce under TSUSA item No. 5321100)



Source: U.S. Department of Commerce, Bureau of Census.
NOTE.—This graph shows only those brick imported whose shipment value was over $250.

ILLUSTRATION 3

(Comparison of imported Mexican brick with TSUSA tariff rates from 1965–72)



Source: U.S. Department of Commerce, Bureau of Census and U.S. Tariff Commission.
NOTE.—This graph shows only those brick imported whose shipment value was over $250.

TABLE 6.—MEXICAN BRICK EXPORTED TO THE UNITED STATES, AS REPORTED BY THE MEXICAN GOVERNMENT UNDER THE MEXICAN TARIFF NOMENCLATURE 1960–71

Year	651.01.00		651.01.01		Total brick	
	Amount (K_g.B)[1]	Value (pesos)[2]	Amount (K_g.B)	Value (pesos)	Amount (K_g.B)	Value (pesos)
1971[3]	97,205	44,342	52,930,448	9,152,481	53,027,653	9,196,823
1970	16,500	1,600	58,716,858	5,670,569	58,733,358	5,672,169
1969	20,193	5,605	64,235,818	6,415,173	64,256,011	6,420,778
1968	121,350	20,693	69,394,692	6,442,464	69,516,042	6,463,157
1967	130,670	19,795	71,857,857	6,281,976	71,988,527	6,301,771
1966	80,790	13,466	62,296,572	5,205,703	62,377,362	5,219,169
1965	63,840	10,370	75,417,597	6,860,907	75,481,437	6,871,277
1964	231,175	16,550	94,704,588	8,819,757	94,935,763	8,836,307
1963	348,259	38,756	79,328,073	8,102,950	79,676,332	8,141,706
1962	206,840	16,598	47,458,982	5,098,774	47,665,822	5,115,372
1961	265,429	106,830	39,291,776	3,850,537	39,557,205	3,957,367
1960	1,109,200	167,622	51,938,116	4,644,387	53,047,316	4,812,009

[1] Amount shown in gross kiligrams: 1 K_g.B=2.2046 lb.
[2] Value shown in pesos: 1 peso=12½ cents.
[3] Projected rate based on exports of 39.797,330 K_g B valued at 6,881,565 pesos from January to September 1971.

Note: Mexican tariff nomenclature: 651.01.00 adobes (mud plaster—clay and grass "brick"). 651.01.01 Ladrillos, Losas O Tabriques De Arcilla O Barro (bricks, tiles and light colored bricks of clay and mud).

Source: Anvario Estadistico Del Comercio Exterior De Los Estados Unidos Mexicanos 1960–71. The various commercial statistics outside the United States of Mexico. Published by: Secretaria De Industria, Y Comercio Direccion, General De Stadistica. Secretary of industry and commerce, Director General of Statistics.

TABLE 7.—MEXICAN BRICK EXPORTED TO THE UNITED STATES AS REPORTED BY THE MEXICAN GOVERNMENT BY NUMBER OF BRICK AND U.S. DOLLAR VALUE[1]

Year	Total brick		Average Value (millions)	
	Quantity[1]	Value	651.01.00	651.01.01
1971[2]	24,604,830	$1,149,602	122.84	46.56
1970	27,252,278	709,021	26.11	26.00
1969	29,814,789	802,597	74.75	26.89
1968	32,255,443	807,894	45.92	25.00
1967	33,402,676	787,721	40.79	23.54
1966	28,943,095	652,396	44.88	22.50
1965	35,023,386	858,909	43.74	24.50
1964	44,050,194	1,104,538	19.27	25.08
1963	36,969,818	1,017,713	29.96	27.51
1962	22,116,941	639,421	21.61	28.93
1961	18,354,543	494,670	108.39	26.39
1960	24,613,954	601,501	40.69	24.08

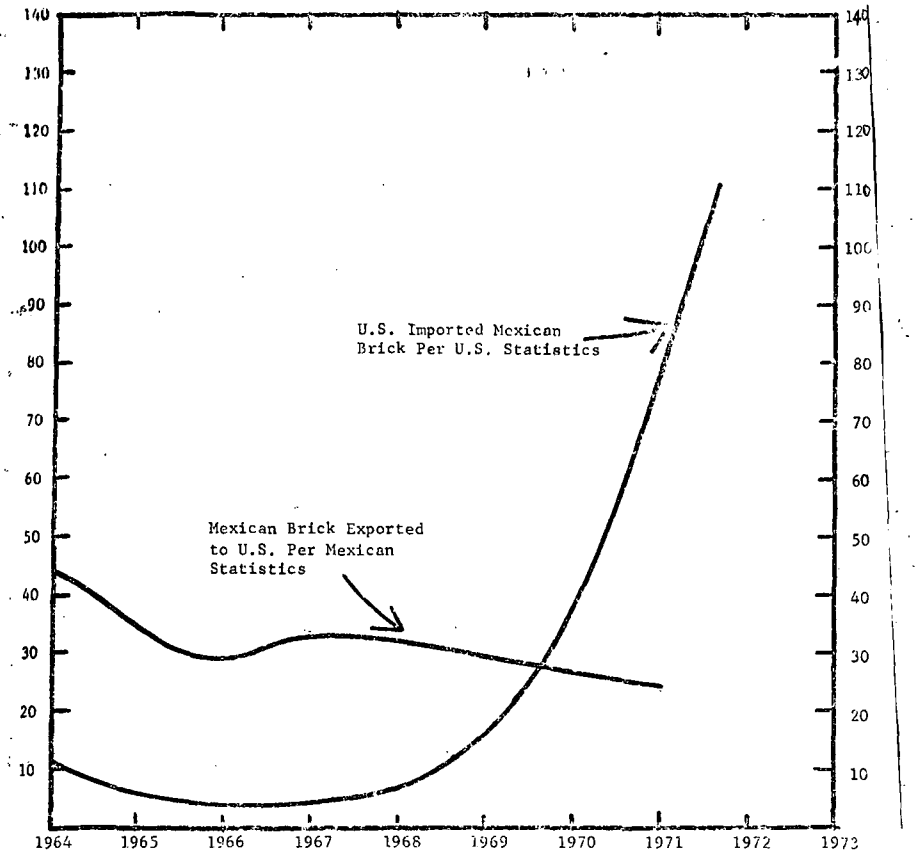
[1] Estimated quantities based on average weight of standard brick of 4.75 lb.
[2] Projected rate based on exports of 39,797,330 kg B valued at 6,881,565 pesos from January to September 1971.

Source: Anvario Estadistico Del Comercio Exterior De Los Estados Unidos Mexicanos 1960–71. The various commercial statistics outside the United States of Mexico. Published By: Secretaria De Industria Y Comercio Direccion, General De Stadistica. Secretary of Industry and Commerce, Director General of Statistics.

ILLUSTRATION 4

(U.S. imported and Mexican brick as reported by U.S. Government and Mexican brick exported to the U.S. as reported by the Mexican Government 1964–71)

CALENDAR YEAR



Source: U.S. Department of Commerce, Bureau of Census, Mexican Secretary of Industry and Commerce, Director General of Statistics "The various commercial statistics outside the United States and Mexico.

SECTION V

THE TEXAS REGION REPORT

During the months of November 1971 through January 1972, the Clay Products Association of the Southwest made a rather extensive study of the portion of the Mexican brick industry that is located along the Texas border. A brief synopsis of the report is presented here. The entire report is reproduced in Appendix B.

1. Production

Various means of production are used from a backyard hand-made operation to large tunnel kilns. About one-third are extruded and two-thirds molded. Tunnel kilns, hog-type kilns, periodic kilns and scove-type kilns are used. Both gas and wood are used to fire the brick.

The estimate of brick being shipped to the U.S. is about 442,600,000 eight-inch brick equivalents. This is broken down by geographic regions as shown in Table 8.

TABLE 8.—*Estimate of U.S. import rate for Mexican brick as of January 1972 as reported by Clay Products Association of the Southwest*

Juarex/El Paso	15,000,000
V. Acuna/Del Rio	3,000,000
Piedras Nesras/Eagle Pass	64,000,000
Nvero Laredo/Laredo	74,600,000
Guerra	13,000,000
Miguel Aleman/Roma	13,600,000
Camargo/Rio Grande	27,600,000
G. Diaz Ordaz	12,000,000
Hidalgo/Reynosa	37,400,000
Progreso/Rio Bravo	37,000,000
	297,200,000
20%—oversize+	59,400,000
	356,600,000 8″ equiv.
Matamoros area plants:	
De La Garza	4,000,000
Rio Grande	6,000,000
Lopez	5,500,000
Saldana	10,000,000
Salgoda	18,000,000
Jinjosa	18,000,000
Sanchez	4,500,000
	66,000,000 8″ equiv.
Zacatecas	14,000,000
Victoria Hiway-Saltillo	6,000,000
	20,000,000 8″ equiv.
Total	442,600,000

2. Customs procedure

A tip of $4.00 per truck or about $0.20–$0.40 per thousand brick at the border usually gets a truck through without delay.

A 5% grace is provided for overloaded trucks. For tonnage greater than 5% over the allowable, a fine of $27.50 is levied regardless of the number of infractions. For a truck overloaded by 6,000 brick this fine amounts to $4.50 per M whereas, the normal freight expense is $30/M or more. Brick haulers can haul illegal brick cheaper than they can haul legal brick.

There are only 21 License and Weight Patrolmen for 61 counties in South Texas. They usually do not work on weekends. The Texas report recommends that the Department of Commerce increase their staff so that all brick being imported from Mexico can be counted.

3. Transportation costs

As mentioned, it is often cheaper to overload trucks and pay the assessed fine than to haul brick within the legal weight limitations. The average transporta-

tion cost for hauling brick is about $0.23 per mile. Diesel fuel can be bought in Mexico for $0.12 per gallon as opposed to about $0.25 per gallon in Texas. No checks are made at the border on fuel tax, ICC regulation, Department of Transportation law, such as safety, or license or weight checks.

4. Fuel costs

Natural gas cost is about $0.25 to $0.30 per 1000 CF. Oversized brick are burned for about $2.50 per M. "The U.S. is selling natural gas to Mexico to make brick to cut out our business—and then they cut our gas off sometimes".

5. Costs of production

An independent Mexican operator charges $5.00 per M to make brick in a backyard cottage-industry type brick—which they resell to the bigger operator with kilns.

Kilns are usually 22′ x 50′ average or about 200,000 to 250,000 8″ brick per kiln. Kilns are loaded in one week, fired for one week, cooled for one week and unloaded in a week.

Estimated plant cost for Mexican brick is as follows:

	Per 1,000
Labor	$6.00
Gas	2.00
Gathering clay	2.00
Strapping	2.00
Total cost of 9″ brick per Roman Longoria	20.00

6. Quality of Mexican brick

It is estimated that about one-fourth of the imported Mexican brick (about 100,000,000) will not have compressive strengths in excess of 1000 psi. This is due to the fact that they are sood fired. Authors of the Texas report also estimate that a 2500 psi strength requirement would eliminate 30–35% of the Mexican brick.

Acme Brick Company performed the following tests on 23 different types of Mexican brick:

a. Initial Rate of Suction.
b. 24-hr. Cold Water Absorption.
c. 5–hr Boil Absorption.
d. Compressive Strength.
e. Freeze Thaw.

Complete results of these tests are presented in the Texan report. In general the test results were:

a. Eleven of the 23 brick tested did not meet any specification for Facing Brick or Building Brick Exposed to Weather because absorption was too high and strength too low.

b. Twelve of the 23 brick tested had compressive strengths in excess of 2500 psi and could be used above grade in areas having weathering index less than 100.

c. Due to high absorption and low strength, all brick tested would be expected to deteriorate in some degree if exposed to freeze-thaw action.

d. All brick would probably remain wet during the rainy seasons resulting in wall leakage and discoloration.

e. The high rate of suction would indicate poor mortar bond for all but one specimen that were tested.

Mr. WAGGONNER. We will hear next from Mr. Robert Bartell, tax program coordinator for the Liberty Lobby.

Mr. Bartell, you may proceed in your own way.

STATEMENT OF ROBERT M. BARTELL, TAX PROGRAM COORDINATOR, LIBERTY LOBBY

Mr. BARTELL. Thank you.

We anticipated that our general counsel will be here with me. Because of a recess we ran into a snag. I would request if Mr. Richardson comes in that it be possible for him to join me.

Mr. WAGGONNER. It certainly will.

Mr. BARTELL. I am Robert M. Bartell, public relations consultant and tax program coordinator of Liberty Lobby.

The President of the United States is asking for unprecedented authority to make changes in tariffs and in domestic laws relating to foreign commerce. He is asking for these powers at a time when our balance of payments deficit is rising; at a time when the Watergate scandal may well have already affected the credibility of the Presidency abroad. Essentially he is asking that Congress confer upon the Presidency powers delegated to Congress under the U.S. Constitution.

Included in this request for trade power by the President is a request for authority to grant most-favored-nation status to the Soviet Union and other communist countries. Included also is a request that the President be given permanent authority over the Council on International Economic Policy (CIEP), which would place the office of the special trade representative under the CIEP. Congress would no longer exercise control over this agency and its director would not be confirmed by Congress.

It is interesting to note that organized labor has announced its opposition to this bill, and that there is a strong move toward protectionism in Congress. An unfavorable balance of trade and an unfavorable balance of payments have contributed to both. Any measure like H.R. 6767 would of course have a great impact on labor.

Liberty Lobby opposes any legislation that would confer additional powers to the President. We particularly oppose passage of this legislation because the Constitution (art. I, sec. 8) specifically mandates that Congress "regulate commerce with foreign Nations."

We are opposed additionally because if the President is granted the powers requested, he will be in a position to retaliate against countries whose exports damage the U.S. trading position and whose balance of payments are chronically detrimental to the American position. Liberty Lobby sees a very real danger if these powers are granted to the President. To be able to retaliate against countries on a discriminatory basis would make it extremely difficult for any President to resist the intense and highly focused pressures that would surely be generated by special interests.

There has been great publicity over the demand by Jewish groups in the United States that most-favored-nation status be denied the Soviet Union until it rescinds its restrictions on emigration of Jews. Liberty Lobby supports this as it supports the inalienable right of free emigration of all minorities from the U.S.S.R., including some 130 million people living in the Soviet-occupied countries of Eastern Europe and the millions known to be imprisoned in slave labor camps throughout the Soviet Empire.

We cannot understand how the Congress could be so apparently unconscionably discriminatory as to consider freeing the Jews without at the same time freeing other minorities. If it is the right for the the one minority to be able to flee the Soviet prison than it is the right for other also. In fact, whereas there are only 2.6 million Jews in the U.S.S.R., there are more than one hundred other ethnic groups and we cannot believe that Congress would consciously discriminate against any of them, particularly as many representatives are from districts containing many votes deriving from Eastern Europe. There are more than one hundred million unfortunate Eastern Europeans, in-

cluding Estonians, Latvians, Lithuanians. Poles, Germans, Czechs, Slovaks, Hungarians, Serbs, Croats, Slavs, and others living under the heel of the Soviet Army at this moment, and many of them have relatives in the United States. Liberty Lobby insists that you let these people go. As a condition of the granting of most-favored-nation status to the Soviet, Liberty Lobby demands that the Soviet Army withdraw from Eastern Europe.

The decision is sell $1 billion worth of grain to the Soviet Union has contributed to a perilous situation here in the United States. According to testimony presented to the Joint Economic Committee, agricultural economist John Schnittker said that bad weather has reduced the harvest yields not only in the Soviet Union but also in mainland China, India, Australia, Argentina, South Africa, West Africa, and the Middle East. On top of that, Schnittker said the 1973 farming year is off to such a wet start, with flooding in many areas, that the administration may have to abandon its plan to sell as much American food as it can to the rest of the world, regardless of its benefits to the lopsided balance of payments.

With grain sales to foreign buyers having nearly doubled since last year, grain dealers cite this as a major factor in climbing beef and poultry prices. American agriculture is falling short of supplying even its own people. There never has been a real "surplus" of food in America. What are emphemistically called "surplus" are compromised of foodstuffs bought up by the government and stored, to make room for low cost foreign food imports.

We feel, therefore, that commerce with foreign nations should not be confused with foreign policy. Let the President conduct foreign policy but let Congress conduct foreign trade. The interests of the American people come before those of the Soviet Union or any other nation.

Dollar devaluation, a nervous stock market, inflation and the underlying condition that the Federal Government cannot keep its own house in order, all point to the necessity of moving very carefully in any effort to dispose of valuable and quite possible essential foodstuffs.

Finally, Liberty Lobby believes that the power of the Presidency has grown to an unnatural size. We believe that only Congress is or can be fully responsive to the will of the people. For that reason the measure which would add to the burgeoning power of the Presidency should be defeated. If the Congress is going to complain about the power of the Presidency, then it must be willing to shoulder its own constitutional responsibilities. Foreign trade is a good place to start.

Thank you again for the opportunity to appear today and present our views. I would be happy to answer any questions I can, Mr. Chairman.

Mr. WAGGONNER. Thank you, Mr. Bartell.

Mrs. Griffiths?

Mrs. GRIFFITHS. I have no questions.

Mr. WAGGONNER. Just a couple of points.

On page 1 you said the administration's bill includes also a request that the Council on International Economic Policy, CIEP, be made permanent. I would like to point out that this is not included in the

President's request for trade power as being considered here. That was a separate piece of legislation that by Presidential message went to the Banking and Currency Committee and is not before this particular committee.

Mr. BARTELL. I appreciate your clearing it up for me, Mr. Chairman.

Mr. WAGGONNER. Then with regard to the U.S.S.R. and immigration, the bill to which you refer does not—and I have received a copy of it since you read your statement—does not refer to Jewish emigrants only. If you will get a copy of the bill which was introduced by Mr. Mills, chairman of this committee and Mr. Vanik, as prime sponsors, on page 2 you will find that it does not refer to any specific race or people. It says the country, and I quote, "imposes more than a nominal tax, levy, fine, fee or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice."

Mr. BARTELL. I would not take issue with what you said other than for the fact that for all practical purposes the people in this Nation have been given to believe that it related almost specifically to Jews because it was the Jews who gained the most publicity about the act. Our feeling is that regardless of who it is this is a normal reaction on the part of all right thinking Americans and it should not be restricted to the Jews but to any ethnic group trying to get out of the Soviet Union.

Mr. WAGGONNER. Too often that is the case. People get a feeling about "facts" when the facts are really to the contrary.

Mr. BARTELL. It was the Soviets who decided to relax the exit visas for the Jews and not for any other ethnic groups in the Soviet Union.

Mr. WAGGONNER. At least that is what portions of the media say.

Mr. BARTELL. That is true.

Mr. WAGGONNER. If there are no other questions, our next witness is Mr. Richard Trauner of the American Watch Association.

STATEMENT OF RICHARD TRAUNER, AMERICAN WATCH ASSOCIATION, INC., ACCOMPANIED BY MARK WEISS, COUNSEL

Mr. TRAUNER. Mr. Chairman and members of the Ways and Means Committee, my name is Richard Trauner of Edward Trauner, Inc., U.S. agents for Zodiac watches, as well as Vacheron and Constantin. I appear here today on behalf of the American Watch Association, Inc. I am accompanied by Mark Weiss of the law firm of Covington & Burling, counsel to our Association.

The AWA is a trade association of about 50 U.S. companies engaged in the importation and assembly of watches and watch movements for sale in the United States and world markets. Members of the AWA include the firms which market such well-known watch brands as: Benrus, Elgin, Girard-Perregaux, Gruen, Longines, Lucien Piccard, Mido, Movado, Omega, Pulsar, Rolex Waltham, Wittnauer, Wyler and Zodiac, as well as many others.

The American Watch Association supports the overall thrust of the Administration's bill, which we believe provide the authority needed to begin a new round of international trade negotiations aimed at reducing tariff and nontariff barriers. We welcome this initiative wholeheartedly.

However, our testimony today will be concerned with two specific issues. Let me address my oral testimony first to the simpler and more familiar of our two main concerns—namely, proposed changes in the escape clause.

The watch industry was the subject of an escape clause action for 12½ years, from July 1954 to January 1967. Despite statutory language calling for annual review of escape clause actions, higher watch duties were perfunctorily continued from year to year until Congress enacted a requirement for automatic expiration of such actions in 1967, unless specifically extended by the President.

After a lengthy and careful investigation by the U.S. Tariff Commission and an elaborate study within the executive branch. President Johnson decided to let the watch tariff increases expire. The watch industry's experience since the termination of the escape clause action strongly confirms that the decision to let those tariff increases expire was the correct one.

From 1966—the year before the duty increases expired—through 1972:

The domestic watch industry increased its production from 15.2 million units to 21.8 million units, an increase of 43 percent, as shown by official Tariff Commission statistics in the table attached to my statement.

The market share accounted for by domestic production increased significantly from 36 percent to 43.5 percent, according to the same official statistics.

The domestic watch producers have not only maintained but actually increased their profitability.

In contrast, while domestic production was increasing 43 percent, imports of watch movements increased less than 10 percent and shipments to the United States of movements assembled in U.S. insular possessions actually declined more than nine percent.

The industry also has been undergoing other changes. Two individual U.S. producers discontinued the manufacture of movements in this country. On the other hand, several companies have recently initiated U.S. production of the newer types of solid-state watches, and domestic watch production now appears to be on the brink of a very significant expansion.

Our industry's experience holds several lessons that should be considered in this committee's deliberations on the escape-clause provisions of the legislation before you.

First, the provision for automatic expiration of any escape clause action should be retained. Only in this way can there be assurance of a serious reexamination of whether continuation of duty increases in necessary or desirable.

Second, neither the statute nor the committee's report should encourage artificial segmentation of an industry for purposes of determining "injury." In the watch industry, some individual companies in some particular segments of the market have lost ground, but the domestic industry in the aggregate has been healthy, profitable, and expanding.

Third, the committee should delete the proposed "market disruption" test. This standard would seriously undercut the requirement for proof that imports in fact are the primary cause of an industry's difficulties. Our experience shows that many complex factors can simul-

taneously be at work to change production and trade patterns, and no simplistic statistical standard can be applied automatically to all industries. It would be unfortunate indeed for U.S. consumers and for the long-run future of the U.S. economy if escape clause actions operated to impede technological improvements and preserve outmoded techniques.

My second subject is one that has probably not been discussed in these hearings. As you may know, the Tariff Commission at the direction of the President is currently studying the question of whether the Tariff Schedules of the United States or TSUS ought to be modified so as to bring them into conformity with the Brussels Tariff Nomenclature system or BTN.

In the case of the watch industry and many other industries, such conversion poses a number of very difficult problems. Watch movements are generally dutiable under the TSUS at so many dollars and cents per unit, regardless of value. The President has asked the Tariff Commission, as part of its BTN study, to try to convert such specific duties to an ad valorem basis. This is not easily done. A rate equivalent to what one importer is now paying would represent an increase of 400 percent or more for another importer. That is because watches of the same size and jewel count vary considerably in value.

For this reason, those working on conversion have been talking about imposition of ad valorem rates based on average values and of combining that approach with a value bracket system. But while a value bracket approach avoids the difficulty presented by variations in value, it creates another problem by treating all watch movements in a particular value bracket in the same manner, regardless of size or jewel count. To illustrate the practical consequences, let us assume, for example, that the average ad valorem rate on a $7 watch movements is calculated at 30 percent. Some $7 watch movements are currently dutiable at $1.35, others at $2.70 or even more. Under a 30 percent rate, all would be dutiable, at $2.10; that is, some movements would cost more to bring in and some would cost less. Unfortunately, the companies which gain are not always the same companies that lose.

In a cost and price sensitive industry, duty changes that increase one company's total product cost by 10 percent and decrease another's by a like amount can have drastic consequences. Some companies can be put out of business and their employees put out of work. Such effects are even more likely where the duty changes amount to 50 percent or 100 percent, as they would in some watch movement categories under an ad valorem averaging approach. Moreover, there is an established watch industry in the U.S. insular possessions which might not be able to continue at all under an ad valorem system unless the duty rates were set so high as to produce major and wholly unjustified duty increases on all other imported watch movements.

I have gone into this detail to demonstrate that the problem is very complex and that the competitive consequences of any change can be far-reaching and, from the standpoint of those outside the industry, not easily foreseen.

In our industry, and possibly in many others, a conversion to the BTN and from specific to ad valorem duties can have major trade and employment consequences. This is not the sort of minor technical tariff change which the Administration should be authorized to adopt without specific affirmative approval by the Congress.

We would urge this committee, therefore, to specify, either in the statut or in its report, that the powers contained in section 103 of H.R. 6767 relating to nontariff barriers shall not be employed to effect a conversion from the TSUS to the BTN. That is to say, neither the advance authorities which the Administration is requesting nor the veto procedure should be used for this purpose. Instead, it should be clear that any conversion to BTN must be presented on an ad referendum basis for positive action by the Congress. We believe this is consistent with the plans of officials in the current administration, but we would like the legislative record to be unmistakably clear for the benefit of those who may deal with the subject in the future.

We would also ask the committee to make certain amendments to section 708, relating to simplification and modification of the tariff schedules. While the technical explanation accompanying the bill makes it clear that this section will not be used to effect a conversion from the TSUS to the BTN, we would like specific assurance that the authority to modify rates of duty does not provide a legal basis for shifts from specific duties to ad valorem equivalents with the TSUS in the absence of a further enactment by the Congress. Thus, section 708(b)(1) says that rates may not "be changed by more than one percent ad valorem or the ad valorem equivalent." However, as I have explained, if specific duties are shifted to ad valorem equivalents, the change affecting an individual import may be 10 percent or 100 percent or even 1,000 percent, although the overall effect on all imports in that particular class may be less than 1 percent. Again, we believe that our request is consistent with the intentions of the administration, but we are seeking clarification so that there will be no future misunderstanding.

As to whether the United States ought to convert to the BTN and, if so, how watch movements ought to be treated, we want to reserve judgment until we see the Tariff Commission's proposals and those offered by the Administration.

Our recommendations here today are intended to preserve that option. We believe they will not meet with any objection from the administration.

Thank you for this opportunity to state our case.

[The table referred to by Mr. Trauner follows:]

U.S. APPARENT CONSUMPTION

[Thousands of units]

Year	Domestic watch movements	Imports	Insular shipments	All movements
1966	15,192	21,597	5,448	42,237
1967	61,599	22,913	3,782	48,294
1968	17,110	23,189	4,085	44,384
1969	17,715	23,365	4,111	45,191
1970	19,394	22,162	3,929	45,481
1971	21,496	22,234	3,805	47,535
1972	21,776	23,857	4,902	50,535

Source: U.S. Tariff Commission.

Mr. WAGGONNER. Thank you.

Mrs. Griffiths?

Mrs. GRIFFITHS. I have no questions, thank you.

Mr. WAGGONNER. Mr. Brotzman.

Mr. BROTZMAN. I was just looking at your statistics here. Apparently we are closing the gap so to speak, between our domestic production and imports as far as watches are concerned. Is that a fair evaluation of your chart, "U.S. Apparent Consumption"? In other words, back in 1966 I see it was 15 million approximately to 21 million imports. At least we have gained on it so that now it is 21 million domestic last year to 23 million imports.

Mr. TRAUNER. That is correct. The domestic industry has been considerably healthier than at any time in the past.

Mr. BROTZMAN. What is causing our competitive improvement?

Mr. TRAUNER. At the present time the devaluation will certainly contribute to the improvement of the domestic industry.

Mr. BROTZMAN. But at least it appears that the domestic industry is moving along quite well.

Mr. TRAUNER. Yes, it is.

Mr. BROTZMAN. Thank you very much.

Mr. WAGGONNER. To be perfectly clear, to follow Mr. Brotzman's questions, what he is really talking about is the assembly of more watches here whose parts are produced overseas, is that not correct?

Mr. WEISS. Mr. Chairman, I think there are two different kinds of assembly involved. There are some watches assembled here from parts made overseas. There are also quite a number made here from U.S. parts.

Mr. WAGGONNER. To go to your chart now for the last year, do you have the information to give us with regard to the total production of all movements in 1972? Out of that 50,535,000 new movements how many were totally produced here and how many were the parts produced somewhere else, and assembled here?

Mr. WEISS. I don't believe we have those breakdowns.

Mr. WAGGONNER. Can you get that information for the record?

Mr. WEISS. Mr. Chairman, I think the Tariff Commission would be the only source that I know of.

Mr. WAGGONNER. Can you give me a percentage figure of the movements that come somewhere within the ballpark that are manufactured overseas and shipped here for assembly?

Mr. WEISS. We would be happy to supply the best estimate we can.

Mr. WAGGONNER. Would you please do that for the record.

Mr. BROTZMAN. Would the gentleman yield?

The 21,776,000 which I note comes from the U.S. Tariff Commission and is under the heading "Domestic Watch Movements," do you understand correctly that this is only assemblage of those movements here and not necessarily production?

Mr. WEISS. Well, sir, it is manufacture of the movements from individual component parts. In some cases the parts may be almost entirely manufactured in the United States or some of those parts may be manufactured abroad by a subsidiary of the same company. There are varying mixtures, but that figure as we understand the way the Tariff Commission classifies these products, represents the number of movements actually assembled out of loose parts here in the United States.

Mr. BROTZMAN. I see. Thank you.

Mr. WAGGONNER. Mrs. Griffiths.

Mrs. GRIFFITHS. Did the tariffs apply to the parts that were brought in before Johnson's Act removing the tariff completely? Did the tariff apply?

Mr. TRAUNER. The tariff applies to watch parts also.

Mrs. GRIFFITHS. So it was great for you when the tariff was removed if you were importing parts made somewhere else with your own subsidiary.

Mr. TRAUNER. Speaking as an importer, the tariff has never been removed completely. It has been reduced somewhat but not removed. There is still a tariff on imported watches.

Mrs. GRIFFITHS. If you had part of the watch made abroad and part made here, what is the effect on your labor price here?

Mr. TRAUNER. We do not do assembly work here. I could not give an honest estimate at this time.

Mrs. GRIFFITHS. It seems to me common sense would tell you that it would cost more made with American labor. If you can assemble them there I assume you can keep the cost of labor down.

Mr. TRAUNER. I assume it would be.

Mr. WAGGONNER. Thank you, Mr. Trauner.

[Additional information follows:]

AMERICAN WATCH ASSOCIATION, INC.,
New York, N.Y., June 7, 1973.

Hon. WILBUR D. MILLS,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During the American Watch Association's testimony at the Committee's trade hearings on May 30, Congressman Waggonner raised a question concerning certain data underlying the Tariff Commission's statistics on U.S. apparent consumption of watch movements. Specifically, he asked how many of the 50,535,000 watch movements consumed during 1972 were totally produced in the United States and how many were assembled here from parts produced abroad. We indicated that we do not have access to that data, but we agreed to furnish our best estimate.

As shown in the Tariff Commission's statistics accompanying Mr. Trauner's testimony on behalf of our Association, consumption of domestically produced watch movements totaled 21,776,000 units in 1972. Mr. Carmody of Timex, who testified right after Mr. Trauner, estimated Timex' U.S. production at 21 million watch movements, substantially all of which, he said, were sold in the United States, rather than for export. We believe the remaining portion of U.S. production would have been accounted for almost entirely by the Bulova Watch Company, as it was, for all practical purposes, the only other U.S. manufacturer of watch movements during 1972. (Other companies are commencing U.S. production of solid-state quartz watches, but these operations were just getting under way in 1972.)

Mr. Carmody further stated that Timex produces most of its watch parts in the United States. Although we know of no similar public statement as to Bulova's production arrangements, we do understand that its U.S. production consists of electronic "tuning fork" watch movements, and we believe that most if not all of the parts for this type of movement also are produced domestically.

These statements are confirmed by Census Bureau statistics showing that total U.S. imports of watch parts in 1972 amounted to $10.9 million. We would estimate that approximately $2.4 million of these were parts imported for use in repairing watch movements. If the remaining $8.5 million of imported watch parts were used as components of watch movements produced in the United States by Timex and Bulova, then on the average the foreign parts used in U.S.-produced watch movements in 1972 would represent only about 40 cents per movement—a small fraction of the cost of any watch movement.

In short, based on the information available to us, we believe that the answer to Congressman Waggonner's question is that the U.S. production of watch movements is based predominantly on U.S.-manufactured parts, not on foreign-made parts.

We should like to make these further points:

Timex's complaint that the domestic watch industry is "within a step of extinction" is flatly contradicted by Mr. Carmody's own testimony. He went on to say two sentences after voicing that complaint that "more people buy Timex than any other watch in the world." Far from being on the way out, Timex is a highly profitable company—the biggest by far in the industry. As reflected in Mr. Trauner's testimony, domestic watch production, including Bulova as well as Timex, has been increasing since the watch escape clause action was rescinded in 1967, and the share of the market accounted for by domestic production has risen from 36 percent in 1966 to 43.5 percent in 1972.

Furthermore, the domestic industry is on the verge of a significant expansion. This was underlined by the testimony of two non-watch witnesses, Dr. C. Lester Hogan, chief executive officer of the Fairchild Camera & Instrument Corporation, and Dr. Robert N. Noyce of Intel, appearing for the California Semiconductor Manufacturers. These gentlemen pointed out, as we did, the opportunities that lie ahead for domestic production of solid state quartz watches based on U.S. integrated circuitry technology, which is the most advanced in the world.

Dr. Hogan said: "Today about 50 percent of all electronic calculators are built in the United States as a result of the semiconductor industry. I happen to believe the same will be true of the watch industry."

Dr. Noyce said: "There was some discussion this afternoon about wrist watches. I am wearing one that we are making in California. I notice Dr. Hogan is wearing a competitive type which we supply parts for. We supply parts for this and manufacture the entire watch. It is made totally of U.S. components. It does include some overseas labor, but it is a U.S. product. . . . We are not interested in protecting our industry. We are interested in free trade and free access to the world markets for items like this or items like the semi-conductor products themselves. . . . We are now selling substantial amounts of these watches to Japan and Switzerland."

While we are sorry to be in the position of disagreeing with the testimony of one of our own members, we share the opinion of Dr. Hogan and Dr. Noyce that no special tariff protection is required for domestic production of solid state quartz watches. Indeed, precisely because the U.S. holds a decisive lead in integrated circuitry technology, the U.S. national interest, as Dr. Noyce has suggested, lies in assuring access for these products to foreign markets, not in raising domestic barriers to import competition. A number of AWA members expect to play a significant role in production of solid state watches. Except for Benrus, none has indicated interest in special tariff treatment for these products.

We do, however, share Mr. Kiam's concern about the impact of any conversion from specific to *ad valorem* duties on assembly operations in U.S. insular possessions as well as upon watches imported directly from other countries. That is one reason why we have urged the committee to insist that Congress retain final authority over the proposed shift from the Tariff Schedules of the U.S. to the Brussels Tariff Nomenclature system. We would welcome the opportunity to work with the committee staff in developing language to accomplish this result.

Respectfully yours,

THE AMERICAN WATCH ASSOCIATION.

Mr. WAGGONNER. We will next hear from Mr. Edward T. Carmody, vice chairman of the Timex Corp.

Mr. Carmody, your entire statement will be included in the record and you may proceed in your own way.

STATEMENT OF EDWARD T. CARMODY, VICE CHAIRMAN, TIMEX CORP.

Mr. CARMODY. Thank you, Mr. Chairman and members of this honorable committee.

My name is Edward T. Carmody. I am vice chairman of the Timex Corp., the maker of Timex watches. Since it is this committee's right and duty to evaluate as well as to initiate ways and means, and since we have been invited to contribute what we can to assist the committee in its evaluation of the President's proposals concerning

foreign trade and tariff matters as set forth in H.R. 6767, we submit the following:

1. No one can disagree with the President's purpose of seeking a peaceful world through, as he said in his Message to the Congress of April 10, 1973, "a more open and equitable world trading system." Certainly we do not quarrel with it.

2. Its accomplishment without disaster requires good faith on all sides and prudence on each side. It is to the factor of prudence that we address ourselves here.

3. We think it would be imprudent of the Congress to give the executive branch plenipotentiary powers to raise or lower tariffs and to eliminate so-called trade barriers, no matter how high minded the motivation behind the request for such powers. One example of why we think as we do is the testimony on May 9 of the Secretary of the Treasury before this committee. He stated that the forthcoming trade negotiations with other leading nations probably should not be "reciprocal", adding that "there may have to be more giving than taking as far as other people are concerned."

The members of the European Common Market must be incredulous as well as jubilant over such a declaration being made even before the first negotiating session is called to order.

We have thus now had confirmed what we have anticipated, that is, the state of mind with which our negotiators will approach the bargaining table next fall. They should not be given full power without limitation or standards.

4. Timex and one other company are all that remain of the American watchmakers. Certainly there is more than one reason for the industry's being within a step of extinction. But the facts that 80 percent of the cost of a watch is labor and that the less expensive labor in other parts of the world has become as productive as our own, almost says it all.

5. The reason more people buy Timex than any other watch in the world is because we gave the public a good-looking, quality watch at a price that has saved the public millions upon millions of dollars—something the foreign interests who for generations dominated the watch market never got around to doing.

If the Congress decides that Timex and most of the 10,000 jobs that it provides should be driven from America in the interest of "a more open and equitable world trading system," let Congress reserve to itself the right to do so by eliminating or perhaps only by diminishing whatever protection our industry has left. We would certainly breathe easier with the power in Congress hands.

6. The President himself, in his April 10 message, recognizes the remnants of the American horological industry as having special needs when, in his paragraphs on generalized tariff preferences, he states, "It is our intention to exclude certain import-sensitive products such as textile products, footwear, watches, and certain steel products from such preferential treatment. . ."

7. Perhaps he has concluded that it is not wise that this industry have no base in this country. Perhaps he is remembering that in times of crisis, this industry has always been among the first to which procurement as turned. We have, so far, been able to provide the management, skilled workers and the already-trained engineering and

technical services needed by our Armed Forces for precision products such as fuzes. In the last three crises, Timex was the No. 1 supplier in the country of such fuzes.

We think it would be imprudent of Congress to divest itself of the powers the executive branch asks. We think it would be doubly imprudent to do so without setting limits and establishing standards. We think the wisest course would be for the Congress to reserve the right to approve or disapprove what our negotiators negotiate. At this great turning point in our economic history, we think that this is what the country expects of Congress.

Thank you.

Mr. WAGGONNER. Mrs. Griffiths.

Mrs. GRIFFITHS. I would like to congratulate you.

In other words, what you are saying is that the rosy picture painted by the gentleman who spoke before you is not quite as rosy as he would have us believe, right?

Mr. CARMODY. Yes, ma'am.

Mrs. GRIFFITHS. I agree with you about delegating power. In my judgment this is not the year to delegate any power. In my judgment, Congress should maintain its power.

Secondly, I am wearing a Timex. I bought it on the theory that it would be cheaper to buy and throw away without getting one of the others fixed. It has been working for 3 years now and I want to thank you. It runs perfectly and I can see it.

Mr. CARMODY. Thank you.

Mr. WAGGONNER. It is hard to get a testimonial like that, isn't it?

Mr. Carmody, how many units of watches did Timex produce last year?

Mr. CARMODY. About 19½ million.

Mr. WAGGONNER. All domestically produced?

Mr. CARMODY. All domestically produced. Some parts came in from branches overseas. That is a necessity to survive.

Mr. WAGGONNER. From branches overseas? You mean Timex branches?

Mr. CARMODY. Yes, sir. That is a sine qua non of continuing.

Mr. WAGGONNER. But all 19½ million of these watches were produced in part or in whole, at least assembled in the United States?

Mr. CARMODY. Much more than assembled. They were produced with parts made by us in this country or in one of the Timex plants abroad, except the jewels. We do not make jewels. That is only a very small segment of our production, jeweled watches, but I do want to make that exception. Except for that we make everything else.

Mr. WAGGONNER. Is there a reason you do not make jewels?

Mr. CARMODY. Well, I suppose the main reason is they are synthetic of course. They cost about 4 cents apiece. People think of them as real rubies or sapphires. I suppose the reason is that it is not our cup of tea. We never have dealt in that. We have been so busy trying to get things going that we have not gotten around to closing the circle and making jewels as well as everything else.

Mr. WAGGONNER. Of the 19½ million watches you produced last year, how many did you export?

Mr. CARMODY. Our export is very small. It is negligible.

Mr. WAGGONNER. Is this by design.

Mr. CARMODY. It is by orders. I mean orders from customers.

Mr. WAGGONNER. In other words, you are selling domestically all that you can produce here?

Mr. CARMODY. That is what I am saying, sir.

Mr. WAGGONNER. The thrust of your statement of course was toward safeguards, it seems to me. You are taking issue with proceeding without safeguards. Do you feel that the Congress can in the basic legislation itself provide the basic safeguard to allow us to move toward more open trade?

Mr. CARMODY. It is a question that I have thought about a good deal. I think it is a very difficult question. I think it is a very difficult job. I would not want to be draftsman who had to sit down and come up with a draft acceptable to the Congress to insure that their powers were sufficiently broad and well enough defined. It might be a very long and arduous and technical job. It might be the proper approach. I am inclined to think that general limitations and general standards, or standards and limitations in general language, might have to suffice, providing that the Congress retain to itself the power to approve or disapprove of what the negotiators who are, some of them, very able people, but inclined to be, shall I say, theoretical, might do beginning next fall.

Mr. WAGGONNER. You latched onto another statement in the Secretary's statement that nobody has called attention to until this point in time. That was his statement about reciprocal trade wherein he said that we might be given more than we would be taking as far as other people are concerned. In the industry has there been much conversation about that statement? Or is this something that you discussed only at Timex?

Mr. CARMODY. No. I would say that after recovering from the shock the conversation was most extensive and most continued. I am sorry to say not too surprised. We have watched this for many years.

Mr. WAGGONNER. Mr. Carmody, we want to thank you for your testimony before us today. I am sure you know how to get a transcript of the record. If you are looking for testimonials Mrs. Griffiths has given you a good one today. Perhaps we will see that appearing in Timex advertisements before long. I would caution you, she's a very learned and able lawyer so don't overstep your rights.

Mr. CARMODY. Thank you very much. Thank you, Mrs. Griffiths.

Mr. WAGGONNER. We will hear next from Mr. V. R. Kiam II, president and chairman of the board of the Benrus Corp.

Mr. Kiam, you can tip the balance. We have heard from each side of your trade. You can choose your side.

STATEMENT OF V. K. KIAM II, PRESIDENT AND CHAIRMAN OF THE BOARD, BENRUS CORP.

Mr. KIAM. Thank you very much.

Mr. Chairman and members of the committee, my name is Victor Kiam, president and chairman of the board of the Benrus Corp. I do not represent any group or association except the corporation I head. Our major division is the Benrus Watch Co., a leading importer and manufacturer of wrist watches. As such, we are vitally concerned with any potential changes in the tariff structure. We oppose

giving the President too broad an authority to eliminate, reduce, or increase duties at will as proposed in the trade bill H.R. 6767.

It is my opinion that there are inherent dangers in granting rights to the President which would enable him to negotiate tariffs without first getting the opinions of responsible parties in the industries that could be affected by any such negotiations. Only the people who are deeply involved within an industry can fully appreciate and fully recognize the effect of any contemplated change. Let me cite an example.

U.S. VIRGIN ISLANDS

You are no doubt familiar with the Government task force authorized to aid the Tariff Commission in the conversion of the existing Tariff Schedules of the United States (TSUS to the basic forms of the Brussels Tariff Nomenclature (BTN)—The conversion from specific rates of duty to an ad valorem basis.

Recently I had an opportunity to review with the task force their tentative proposal in the watch area. I found that these proposals, were they to be put into effect, would have virtually eliminated the manufacturing of watch movements in the American possessions of the Virgin Islands, Guam, and Samoa. I am submitting into the written record as evidence of this our presentation to the task force on April 26, and May 11, 1973.

The Virgin Island industry exists only because of the current duty structure which permits companies such as ours to invest in capital expenditures and to train the native population in these underdeveloped areas and still compete in costs with direct import duty-paid goods. Any reductions in duties could and would have a disastrous effect upon his American industry as well as the economy in these areas.

Consider that this industry is the number one employer of native Virgin Islanders and employs ten times as many permanent residents of the Virgin Islands as do the Hess and Harvey Oil companies combined. According to the officials of the Virgin Islands, the watch industry has done more to upgrade the labor force and to give a feeling of pride to the native population than any other industrial enterprise.

The watch industry is extremely important to the Virgin Islands; and if the Tariff Commission possessed the unilateral powers to alter duties such as the President is requesting, upon recommendations considered by the task force, the watch industry and the jobs it provide in the Virgin Islands could already have been bargained away.

However, the standard procedure of open hearings made it possible for Benrus to bring attention to the adverse effects that their proposed schedule would have had on the industry.

I am sure such cases are not limited to the watch industry and that other leaders in other industries could cite similar examples.

I want to bring to your attention a new era which the watch industry is entering with the introduction of solid state quartz timepieces. The major developments in solid state quartz technology have originated with American electronic companies which are currently the major world producers of parts and products based on the technology.

I believe that any tariff structure that is developed should recognize the quartz-solid state timepiece as a separate and unique item. This unique item will require a new tariff schedule designed in such a way that it will not permit what has happened so often in the past—the reimportation of American technology in foreign manufactured items produced by vastly lower cost foreign labor. I believe that a new tariff rate schedule should be developed which will allow this embryonic industry to grow.

The existing tariff is based on size of movement and number of jewels. For example:

A 17-jewel petit ladies' with approximate cost of $5 has a duty of $2.70.

A 17-jewel man's movement with approximate cost of $6 has a duty of $1.80.

A 7-jewel man's movement with approximate cost of $4.50 has a duty of 90 cents.

A 1-jewel man's movement with approximate cost of $3 has a duty of 75 cents.

The quartz timepieces generally have either no jewels or less than seven jewels. As such, under our existing tariffs, the duties on such movements would range between 75 and 90 cents. This would hardly have any effect on the total cost of the finished imported product since quartz movements range in cost between $30 and $50. An added cost of 75 cents in this category is almost meaningless to the total selling price.

This new industry affords America the opportunity to reestablish itself in the quality timepiece field. We should take every precaution to protect this embryonic industry from what happened to the once substantial American quality watch industry which no longer exists.

In the past, there has been a concerted effort on the part of foreign interests to destroy the American watch industry through collusion and formation of cartels. In an address made to the Senate by Senator Strom Thurmond, entered into the Congressional record of April 19, 1972, reference is made to such conspiracy. A copy of this address is being submitted with my written presentation.

We should not permit this to happen again. I believe that in a very few years the majority of watch sales will be in this new solid state quartz technology and that a new tariff rate should be developed which will permit this industry to flourish in the United States.

In conclusion: The administration's new trade bill does focus interest on nontariff barriers and export subsidies in other countries which finance competition with the U.S. products, and it sets up weapons for combatting such restrictive trade practices abroad. These provisions are vitally important and helpful.

Yet at the same time section 708 authorizes the executive to "simplify or clarify the tariff schedules." This is a worthy objective, but this authority should not be used to revise these schedules so radically that the change would materially and harmfully affect the U.S. industry and employment. The executive branch should not be permitted to bargain away jobs and industrial activity in the United States without some congressional control.

[Supplementary material provided by Mr. Kiam follows:]

BENRUS CORP. PRESENTATION TO THE TASK FORCE OF APRIL 26, 1973

BENRUS CORP.,
Ridgefield, Conn., April 26, 1973.

MR. ALLEN H. GARLAND,
Chairman, Trade Staff Committee, Office of The Special Representative for Trade Negotiations, Executive Office of The President, Washington, D.C.

DEAR MR. GARLAND: Attached herewith the Benrus Corporation proposal to convert the present Tariff Schedules of the United States (TSUS) for watch movements and parts to conform with the Brussels Tariff Nomenclature (BTN).

Thank you for your kind consideration.

Cordially,

BENRUS CORP.
By VICTOR K. KIAM II,
President.

Attachments.

NEW TARIFF PROPOSAL

Benrus appreciates the opportunity to present the proposal of the Benrus Corporation as it relates to the revision of the Tariff Schedules of the United States (TSUS), which would conform with the Brussels Tariff Nomenclature (BTN) for watch movements and parts. As a member of the AWA (American Watch Association), we have been privy to their tentative proposal in addition to the proposal submitted by the Task Force.

In the opinion of the Benrus Corporation, neither one of these proposals would conform to President Nixon's request that the status quo on tariffs be maintained. It is the opinion of Benrus that these proposals would have an adverse effect on the economy of the Virgin Islands; that they would have an adverse effect on the embryonic quartz/solid state time industry now under development in the United States; and that they would have an adverse effect on American labor in the after-sales service area. It is also the opinion of Benrus that its proposals in this presention closely conform to the President's instructions.

In making this presentation Benrus is representing in effect its own corporate interest; the interest of the Virgin Islands, Guam and Samoa; the United Auto Workers; and Amalgamated Jewelry, Diamond and Watchcase Workers Union (see Attachments No. 1 and No. 2), We are also considering the impact on the electronic industry which has developed the new solid state components for the watch industry that will be an important factor in the near future.

NONCONFORMANCE TO PRESIDENT NIXON'S LETTER

In President Nixon's instructions to the Task Force to submit proposed tariff changes to conform to the Brussels Tariff Nomenclature (BTN), he requested that the existing Tariff not be disrupted and that "where feasible, existing specific and compound rates of duty should be converted into equivalent or approximately equivalent ad valorem rates of duty."

A chart comparing the current duty percentages on the major movement types with the Task Force percentages is listed below:

Type of movement	Cost[1]	Current duty rate	Percent rate current duty	T.F. proposed rate by value (percent)
5½ Ligne—17 jewels	3.50	2.70	77.1	35
6¾ by 8—17 jewels	3.13	2.25	71.8	35
11½ in—17 jewels, manual C.S	3.14	1.80	57.3	35
11½ in—17 jewels, automatic calendar	5.01	2.30	45.9	30
11½ in—17 jewels, automatic day/date	5.78	2.30	39.7	30
12 in—13 jewels, electronic calendar	10.08	1.44	14.4	16

[1] Before devaluation.

As you can see, the rates recommended represent a reduction in tariffs of as much as 50%.

ADVERSE EFFECTS OF PROPOSED TARIFF CHANGES ON THE VIRGIN ISLANDS

President Nixon stated that all changes in rates of duties contained in the schedule should be indicated together with a statement of their economic significance for any U.S. industry and for U.S. imports.

We don't believe it is the intention of President Nixon or the Task Force or the Tariff Commission to harm the Virgin Islands, a possession of the United States, yet it is Benrus' belief that the referenced proposals would virtually eliminate the major industry of the Virgin Islands, Guam, and Samoa. (See Exhibit A.)

The watch industry is currently the most important industry in the Virgin Islands with the following statistics:

Number of native people employed	1,104
Payroll (1972)	$3,600,000
Taxes paid (calendar year 1972)	$3,200,000

The fact that the watch industry employs ten times as many permanent residents of the Virgin Islands as do the Hess and Harvey Oil companies combined; the fact that the watch industry pays three times more taxes than the hotel industry; the fact that the watch industry is the number one employer of native Virgin Islanders—all these facts are most significant but these facts pale beside the one great intangible that the watch industry provides—it gives to emerging and aspiring black U.S. citizens a sense of accomplishment in a technologically sophisticated industry and not in a field associated with servility.

According to the officials of the Virgin Islands, the watch industry has done more to upgrade the labor force and to give a feeling of pride to the native Virgin Islands population than any other industrial enterprise.

All these facts indicate that the elimination of the watch industry in the Virgin Islands would have a disastrous effect on their economy and society.

ADVERSE EFFECT ON QUARTZ/SOLID STATE INDUSTRY

The watch industry is currently entering a new era with the introduction of solid state watches. The major developments in solid state and quartz technology have originated from American electronic companies, which are currently the major world producers of parts and products based on this technology. We believe that any tariff structure that is developed should recognize the quartz/solid state watch as a separate and unique item. This unique item will require a new tariff schedule. It should be designed so as not to permit what has happened so often in the past, the reimportation of American technology in foreign manufactured items produced by vastly lower-cost foreign labor.

We believe that a new rate schedule should be developed which will allow this industry the opportunity to grow—an industry in which America presently plays such a small part worldwide.

Under the new proposal of the Task Force, the solid state quartz would carry the lowest tariff. This type of product is currently in the $30.00-and-over price range which carries a suggested 5% duty in the price category of the Task Force. This compares with a suggested 30%–35% duty on other types of movements. (See Exhibit B.)

In addition, the Task Force proposal is inconsistent in the area of duty rates where one is paying lower duties on higher cost movements and higher duties on lower cost movements. This is not consonant with good business practice. (See Exhibit B.)

BENRUS TARIFF PROPOSAL FOR MOVEMENTS

Benrus respectfully submits a proposal which we think meets the instructions and objectives as outlined in President Nixon's request to re-examine the present tariff structure.

Number One, it closely conforms to the current tariff rate structure, and

Number Two, it maintains the parities between the various producing areas.

It is Benrus' opinion that the most reasonable way to maintain the tariff effectiveness within the present confines as requested by the President is to establish an ad valorem rate by category. Benrus has no objection to the planned move to an ad valorem rate. Benrus suggests that in moving to an ad valorem tariff, the following categories should be established. These categories have been structured to take into account the new solid state/quartz watchmaking technologies. These are:

A. Mechanical Movements.
B. Electronic Movements.
C. Quartz/Solid State.

A. Within the mechanical category there would be four (4) groupings which would be very similar to the current tariff structure:

Grouping	*Suggested Ad Valorem Rate*
1. Pin Lever (0–1 Jewel)	20%+10% over $3.50.
8. 6/10'' or under	70%+10% over $4.00.
3. Over 6/10''—not over 1''	60%+10% over $4.00.
4. Over 1'' not over 1.77''	50%+10% over $4.00.

B. Electronics, one grouping: 15%+10% over $10.00.

C. Quartz/Solid State, one grouping: 25%+10% over $25.00. (See Exhibits C and D.)

ADVERSE EFFECTS ON AFTER-SALES SERVICE

The third area which certainly would affect domestic companies unfavorably is the proposal of the Task Force for increases in the duties for certain key replacement parts.

Should the tariffs on these parts be increased as tentatively suggested by the Task Force, it is questionable whether it would be worthwhile to continue service centers in the United States. This would have a disastrous effect on the over 25,000 independent watchmakers serving an average consumer throughout the United States. The increased tariffs would encourage having a bank of movements in the United States and having repairs done in other countries. The result would be the loss of jobs and livelihood of many thousands of Americans. We cite two important examples in this area:

One is the mainplate which currently has a rate of duty which is "equal to one-half the duty for the complete movement for which provided." This normally establishes a duty rate of approximately $0.45 on a man's seven-jewel model. Under the new proposal, this part would become dutiable at $2.00.

The second important area is the balance assembly which is imported as a complete item. This assembly is currently dutiable at a specific rate of $0.17½ each. We reviewed this new proposal with U.S. Customs and it was their interpretation that if this tariff were in effect today, they would assess a duty rate of $2.29.

Benrus proposals as compared to the current rate and Task Force proposals appear in Exhibit E.

[Attachment No. 1]

UNITED AUTOMOBILE, AEROSPACE AND
AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW),
AMALGAMATED LOCAL 1251, UAW,
Waterbury, Conn., April 24, 1973.

Mr. ALLAN GARLAND,
Chairman, Trades Staff Committee, Office of the Special Representative for Trade Negotiation, Exectuive Office of the President, Washington, D.C.

DEAR MR. GARLAND: The Amalgamated Union, Local 1251, U.A.W. fully support the position of the Benrus Corporation with respect to maintaining the current tariff structure on watch material imports.

Alterations in the tariff will seriously affect current and future employment opportunities of our membership in the United States and give unfair advantage to foreign competition, especially under the Watch Parts Section of the new tariff proposal.

We currently cover employees who assemble watch movements and perform secondary operations on imported parts. Changes in our tariff structure, which conceivably could change the cost of watch parts by two to three times their current cost, would make it economically unfeasible for Benrus and other manufacturers in the United States to continue operations. The result would be the loss of jobs for potentially several hundred of our members, many of whom are in the disadvantage classifications.

It will also result in the loss of the development of precision assembly skills in the United States and give foreign competition an unjust advantage in the development and growth of Quartz crystal and solid state watches.

We believe the position set forth by our Union, that is maintenance of current tariff on watch parts, is within the meaning and intent of the President's charge to the Tariff Commission.

Very truly yours,

ROGER E. TRIPP, *President.*

[Attachment No. 2]

AMALGAMATED JEWELRY, DIAMOND, AND
WATCHCASE WORKERS UNION,
LOCAL NO. 1, I.J.W.U. (AFL–CIO),
New York, N.Y., April 24, 1973.

ALLAN GARLAND,
Chairman, Trade Staff Committee, Office of the Special Representative for Trade Negotiations, Executive Office of the President, Washington, D.C.

DEAR MR. GARLAND: The International Jewelry Workers Union has been the bargaining agent for many companies in the watch industry for over 30 years, covering workers employed in every production classification including watch makers.

In reviewing the proposed changes in the tariff structure on watch material imports, we feel that the newly proposed changes would reuslt in a substantial increase on watch material parts imported into the United States and would have a serious effect on the maintenance of jobs for our membership. We fully support the position of Benrus Corporation as it relates to watch material parts.

A substantial percentage of our members are engaged in watch repair work, this activity is vital in the maintenance of proper after-sales services to consumers throughout the United States. We understand that the proposal for a change in the tariff structure would result in the increase in duty on imported parts, in some instances, approaching the duty cost on new watch movements. If such increases were to be put into effect, it is our considered opinion that the repairing of watch movements would be done in foreign countries and the need for repair watch makers in the United States would be eliminated.

We strongly urge the Tariff Commission to reconsider the current proposals and to maintain the duty structure as it exists today as proposed by the Benrus Corporation.

Very truly yours,

JOSEPH TARANTOLA, *President.*

[From the Congressional Record, Apr. 19, 1972]

THE PINION GEAR INDUSTRY IN THE UNITED STATES

Mr. THURMOND. Mr. President, I invite the attention of the Senate to a most urgent problem involving the security of the United States. Unless there is an immediate resolution of this problem, the United States will become totally dependent on a few foreign sources for critical precision components required by our military forces. These components are indispensable for the manufacture of timing mechanisms used in fuzes and safety devices for a wide range of ammunition.

For many years, the Swiss watch and clock industry, vigorously supported by the Swiss Government, has been engaged in a conspiracy designed to cripple and destroy our own watch industry.

As a reminder to Senators, I would like to quote a significant portion of a court case on this conspiracy which was proved in the U.S. District Court, Southern District of New York. The case which was heard by Judge John M. Cashin, was concluded on December 20, 1962. I quote Judge Cashin as follows:

"Since at least 1931 and continuing to date, the defendants have been and are engaged in a combination and conspiracy to restrain unreasonably the foreign and interstate trade and commerce of the United States in the manufacture, import, export and sale of watches, watch parts and watchmaking machines in violation of Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act.

"I cannot accept the argument that the defendants' Conventional restrictions aimed at preventing the development of competitive watch manufacturers were 'not directed at the United States watch industry.' The United States watch industry was the Swiss watch industry's biggest competition, and the restrictions of the Convention have obviously had a crippling effect in this country, and were so intended.

"The only question suggested here is whether the acts of the defendants have affected United States trade and commerce and, if so, whether they have restrained such trade and commerce. It is obvious from the facts that they have."

For several years, I have been personally involved in efforts to save for the

United States some small residual part of this unique production capability, known as the pinion gear industry and so vital to our national security. Despite considerable attention given to this problem in the past by various agencies of the Government, including a special Subcommittee of the Senate Armed Services Committee, as well as the successful prosecution of the above cited antitrust suit by the U.S. Government against members of the Swiss watch industry, our own watch industry has practically been destroyed.

Now, the remaining residual capability known as the pinion gear industry, is in jeopardy.

Mr. President, in 1969, when it became obvious that the Swiss would be satisfied with nothing less than the total destruction of the remaining U.S. pinion gear capability, irrespective of the effect that this would have on our national security, I personally urged the Secretary of Defense to take whatever action necessary to preserve and strengthen what was left of a woefully inadequate mobilization base. I was encouraged when informed by the Department of Defense, that after a thorough and intensive investigation, the Deputy Secretary of Defense had, on August 19, 1971, instructed all responsible defense agencies that in the interest of defense mobilization, all precision components, notably gears and pinions, for military timing devices must be domestically produced. This policy was to apply to all procurements beginning with fiscal year 1972.

I felt it would be only a short time until domestic producers of precision gears and pinions would begin to receive subcontracts which they desperately need in order to survive. However, with over half the fiscal year 1972 gone, these domestic firms have not received the assistance the policy was designed to give them.

On August 19, 1971, the Deputy Secretary of Defense in his memorandum to all responsible defense agencies made the following statement:

"I have determined that future defense requirements for such precision components must be procured from Domestic or Canadian manufacturing sources to the maximum extent practicable to preserve the domestic mobilization base for such components."

There is nothing that I can find in his memorandum to any defense agency which pointed out that any measures were being taken to transfer Swiss owned companies located in Switzerland to the United States under the pretense of being disguised as domestic companies. His intent was to preserve and strengthen the existing capability in the United States which was in such a run down condition as a result of the all-out attack of the foreign cartels to eliminate all of our existing capability.

At the present time, two Swiss firms are being allowed to establish themselves in this country and continue their destruction of our domestic capability through participation in the very program which was designed to save our domestic base from this competition in order to protect our national security. The two Swiss firms are Degen & Co., Ltd., which is located in Burlington, Mass., and is owned by Degen & Co., Ltd., of Switzerland; and Mill-Max Co. of Port Washington, N.Y., which is owned by Charilloz of Switzerland.

I was amazed to learn that the Swiss firms were being assisted in their efforts to locate in the United States by some agencies of our Government. This was done with either blatant disregard or ignorance of the Department of Defense directive designed to retain and strengthen our own base producers.

In December of 1971, the first major fuze contract under the new directive was released. It involved over 27 million pinions, and the two above-mentioned Swiss firms initially received all of the subcontracts. However, they made no effort to move to the United States until after the contract was released. These two firms were surveyed by the Army during the first week in February. Both firms were considered unqualified to produce due to the small amount of equipment which they had thus far shipped into the United States; however, on March 13, they were resurveyed and Degen & Co. was still considered disapproved to be used as a subcontractor, but Mill-Max Co. was approved to produce 90,000 pinions per week. It is now my understanding that both companies have come back to the Army and asked for a third survey, and I have no doubt that if things are handled like they have been in the past that both companies will be approved on some basis to produce parts in the United States. I think that this is a flagrant violation of the intent of the directive.

Mr. President, hindsight is always 20–20; and as Judge Cashin said in the findings of his court case—

"That since at least 1931 and continuing to date, the defendants have been and are engaged in a combination and conspiracy against the U.S. watch industry."

Subsequent to Judge Cashin's decision, Swiss watch interests have obtained control of the Waltham Watch Co. of Waltham, Mass.; the Elgin National Watch Co. of Elgin, Ill.; and the Hamilton Watch Co. of Lancaster, Pa. It is significant to note that none of these watch companies any longer manufacture watch movements or watch movement parts in the United States. The dismantling of Elgin's U.S. capability resulted in the loss of several hundred jobs when the firm's movement assembly operation was transferred from Elgin, S.C., to Switzerland. Some measure of the economic loss of this action was compounded by further increasing the inadequacy of our mobilization production base. Unless something is done immediately to protect the pinion gear manufacturers of the United States, the same situation will follow. This cannot and must not be allowed to happen to the pinion gear industry. Our country must never again be put in a position of depending on imports of these vital components in time of emergency. I urge my distinguished colleagues to help prevent it. I plan to provide information to some of my colleagues and personally request their assistance.

My recent effort to seek help from the State Department has not been successful. It is not yet apparent that the Department of Defense will make a further effort to implement its directive as originally intended due to pressure from others. However, it is apparent to me that there are some in the executive branch of the government making an extensive effort to protect our national security in this regard, but they are being overcome by higher authority under the guise of benefits of foreign investment in the United States. I intend to secure all the facts.

Consequently, I am considering a request to have the Justice Department investigate this matter. As I have described, there appears to be collusion between some U.S. prime contractors and foreign subcontractors who manufacture these precision devices. It also appears to me that our Government has not established any monitoring mechanism to prevent a reoccurrence of the conspiracy which Judge Cashin uncovered. In my opinion, the case which Judge Cashin heard is very pertinent to the current effort by the Swiss and their U.S. supporters.

It is ironic that the B. F. Goodrich plant in Elgin, S.C., which utilized the former Elgin Watch facility, is now being closed down because of foreign competition in the manufacture of such items as tennis shoes and other canvas footwear. It is reported that over 350 people will lose their jobs because of this foreign competition. It is time for the United States to take a firm position to stop this continuous foreign encroachment into our country.

Mr. President, the analogy of the watch industry to the residual pinion gear-industry is frightening. In an effort to convince the Senate of how the Swiss operate in such matters, I ask unanimous consent to have the opinions and the finding of fact of a U.S. District Court of New York printed in the Record.

(There being no objection, the items were ordered to be printed in the Record, as follows:)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK CIVIL ACTION No. 96–170

(United States of America, against The Watchmakers of Switzerland Information Center, Inc.; Federation Suisse des Associations de Fabricants d'Horlogehie; Ebauches, S.A.; Foote, Cone & Belding; American Watch Association, Inc.; Bulova Watch Company, Inc.; Benrus Watch Company, Gruen Watch Company; Longines-Wittnauer Watch Company; Gruen Watch Manufacturing Company, S.A.; Eterna, A.G. Uhrenfabrik; Wittnauer et Cie., S.A.; Montres Rolex, S.A.; Concord Watch Co.; Eterna Watch Company of America; Diethelm and Keller (USA) Ltd.; The American Rolex Watch Corporation; Rodana Watch Company, Inc.; Movado Watch Agency, Inc.; Jean R. Graef, Inc.; Norman M. Morris Corporation; The Henri Stern Watch Agency, Inc.; Cyma Watch Co., Inc.; Wyler Watch Agency, Inc.)

In this case the Government alleges a conspiracy to impose unreasonable restraints on the foreign and domestic trade and commerce of the United States, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1), and Section 73 of the Wilson Tariff Act (15 U.S.C. § 8). In brief, the case involves a broad combination and conspiracy allegedly engaged in since 1931 by Swiss and United States manufacturers and sellers of Swiss watches and watch parts and their trade associations to restrict, eliminate and discourage the manufacture of watches and watch parts in the United States and to restrain United States imports and exports of watches and watch parts for both manufacturing and repair purposes. It is also charged, *inter alia*, that the defendants and co-con-

spirators have agreed to fix minimum price levels of watches sold in the United States and maximum prices for the sale of repair parts in the United States; to regulate the terms of sale and methods of distribution of watches and watch parts in the United States; to blacklist and boycott all persons not adhering to these restrictive practices, and to exclude persons from dealing in Swiss watches and from engaging in the business of importing Swiss watch repair parts into the United States.

In material part, Section 1 of the Sherman Act provides as follows:

"Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal * * *"

Section 73 of the Wilson Tariff Act provides as follows:

"Every combination, conspiracy, trust, agreement, or contract is declared to be contrary to public policy, illegal, and void when the same is made by or between two or more persons or corporations, either of whom, as agent or principal, is engaged in importing any article from any foreign country into the United States, and when such combination, conspiracy, trust, agreement, or contract is intended to operate in restraint of lawful trade, or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported into the United States, or of any manufacture into which such imported article enters or is intended to enter * * *."

The following corporations and associations were listed as defendants in the complaint filed on October 19, 1954:

Federation Suisse des Associations de Fabricants d'Horlogerie,
Ebauches, S.A.,
The Watchmakers of Switzerland Information Center, Inc.,
Foote, Cone & Belding, Inc.,
American Watch Association, Inc.,
Bulova Watch Company, Inc.,
Benrus Watch Company,
Gruen Watch Company,
Longines-Whittnauer Watch Company,
Gruen Watch Manufacturing Company, S.A.,
Eterna A.G. Uhrenfabrik,
Wittnauer et Cie, S.A.,
Montres Rolex, S.A. (later dismissed voluntarily by the Government),
Concord Watch Co.,
Eterna Watch Company of America,
Diethelm and Keller (USA) Ltd.,
The American Rolex Watch Corporation,
Rodana Watch Company, Inc.,
Movado Watch Agency, Inc.,
Jean R. Graef, Inc.,
Norman M. Morris Corporation,
The Henri Stern Watch Agency, Inc.,
Cyma Watch Co., Inc.,
Wyler Watch Agency, Inc.

Named as co-conspirators were the following:

L'Union des Branches Annexes de l'Horlogerie,
Société Générale de l'Horlogerie de Suisse, S.A.,
Compagnie des Montres Longines Francillon, S.A.,
Thommens Watch Co., Ltd.,
S.A. Ancienne Fabriques Georges Piaget & Co.,
Ancienne Fabrique Vacheron and Constantin, S.A.,
Societe De Vente Des Produits Jaeger-Le Coultre, S.A.,
Fabrique l'Horlogerie E. Homberger—Rauschenbach ci-devant International Watch Co.,
Fabrique Movado, S.A.,
Concord Watch Co., S.A.,
E. Mathey Tissot & Co.,
Societe Anonyme Louis Brandt & Frere, Omega Watch Co.,
Rodana, S.A.,
Girard Perregaux and Co., S.A.,
Graef and Co. Fabrique Mimo, S.A.,
Fabriques de Montres Wyler, S.A.,

Cyma Watch Co., S.A.,
Lavina, S.A.,
l'Ancienne Manufacture d'Horlogerie Patek Philippe & Co., S.A.,
Perrei et Berthoud, S.A.

The following corporations were listed as repair parts importers and named as co-conspirators:

The Newall Mfg. Co.,
Henry Paulson & Co.
C & E Marshall Company,
Swartchild & Company,
Mammel, Riglander & Co., Inc.,
M. J. Lampert & Sons, Inc.,
B. Jadew Inc.

Numerous conferences were held with the defendants and the Government, and numerous hearings were held in my presence to see whether or not a consent decree could be worked out for the Government and all the defendants to sign. As a result of these hearings and conferences, a proposed consent decree was arrived at and all the defendants received copies thereof. On the 9th day of March, 1960, consent decrees were signed by the following defendants:

American Watch Association, Inc.,
Foote, Cone & Belding, Inc.,
Eterna Watch Co. of America,
Diethelm and Keller (USA) Ltd.,
Concord Watch Co., Inc.,
Movado Watch Agency, Inc.,
Jean R. Graef, Inc.,
The Henri Stern Watch Agency, Inc.,
Wyler Watch Agency, Inc.,
The American Rolex Watch Corporation,
Rodana Watch Company, Inc.,
Cyma Watch Co., Inc.,
Norman M. Morris Corporation.

The remaining defendants did not sign the proposed consent decree and the trial as to them commenced on November 14, 1960. The defendants who went to trial were the following:

Federation Suisse des Associations de Fabricarts d'Horlogerie,
Ebauches, S.A.,
The Watchmakers of Switzerland Information Center, Inc.,
Whittnauer et Cie., S.A.,
Longines-Wittnauer Watch Company,
Eterna, A.G. Uhrenfabrik,
Gruen Watch Manufacturing Company, S.A.,
Gruen Watch Company,
Bulova Watch Company, Inc.,
Benrus Watch Company.

Plaintiff's case closed on November 30, 1960. The trial was resumed with the opening of defendants' case on February 8, 1961 and, after rebuttal by both sides, terminated on May 17, 1961. Further hearings were conducted in December, 1961. The transcript of the trial encompasses over 8,000 pages, and a total of 1,296 exhibits were introduced by the parties, 781 by the Government and 565 by the defendants.

After consideration of all this evidence, the following findings of fact are made.

FINDINGS OF FACT

Description of Defendants and Others

1. Defendant, Federation Suisse des Associations de Fabricants d'Horlogerie (hereafter referred to as "FH"), is an unincorporated association organized in 1924 pursuant to Article 60 of the Civil Code of Switzerland for the purpose of protecting the general interests of Swiss watch manufacturers and assemblers. It is a non-profit association composed of six regional groups of Swiss watch producers. These groups are called Sections, each of which is itself an association whose membership is composed principality of individual Swiss firms engaged in the manufacture or assembly of jewel-lever watchers and movements in Switzerland.

2. There are two types of watch producers who are FH members. One is the so-called *manufacture* (manufacturer), organizations, claiming that Bulova Bienne was entitled to furnish aid to Bulova U.S., as a "situation acquise." The DR rejected Bulova's "situation acquise" argument, but stated it would not intervene in this field "until further notice." Bulova Bienne was thus constantly subject to having this furnishing of aid to Bulova U.S. questioned or stopped at any time.

168. The Swiss watch industry organizations similarly objected to Bulova Bienne furnishing assistance to Bulova U.S. in connection with the manufacture of jewel bearings. The Swiss watch industry organizations also objected to Bulova Bienne's attempt to hire watch technicians skilled in the art of manufacturing self-winding watches which might accrue to the benefit of Bulova U.S., and they warned Bulova that such conduct "would be a direct attempt against the general interest of the Swiss watchmaking industry." The Swiss watch industry organizations also objected to the technical knowledge which had been developed by Bulova Bienne in connection with Bulova's electronic watch being conveyed to the United States. The Swiss watch industry organizations threatened on at least one occasion to cancel the Convention against Bulova Bienne under Article 23 for the aid it was furnishing Bulova U.S. to help its development in the United States.

169. At the request of the United States Government, Bulova established and operated a defense plant for the manufacture of jewel bearings at Rolla, North Dakota. Bulova operated this plant under a contract with the Department of Defense at a net profit of $1.00 per year. In 1953, the Swiss watch industry organizations expressed serious concern over Bulova's operation of this defense plant, and desisted only after being satisfied that Bulova was operating the plant solely for the purpose of making instrument jewels for defense purposes. The Swiss watch industry organizations reserved the right to take action against Bulova—which would include "cutting off" Bulova Bienne—at any time that Bulova might start making watch jewels at Rolla.

170. The Rolla situation led to considerable perturbed discussion between the Swiss watch industry organizations and Bulova Bienne. The Swiss watch industry organizations kept Bulova's Rolla operations under surveillance. One checkup made by the Swiss Consul in Chicago indicated to the DR that there was still a question as to whether the Rolla plans might not at some future date be transformed into making watch jewels.

171. When Bulova U.S. in 1948 opened a watch case factory in Canada, the Swiss industry organizations initially labeled it as a "flagrant violation" of Bulova's obligations; and they characterized this new competition of Bulova as "extremely dangerous to us." The Swiss watch industry organizations desisted in their concern only after being satisfied that the factory was limited to making watch cases and did not manufacture watch movements.

172. Bulova's Canadian plant was kept under continuing surveillance by the Swiss watch industry organizations. In early 1949, the Swiss Consulate in Toronto made a confidential report on this subject to the Advisory Conference of the Watch Industry Organizations, including the suggestion that this case factory in Canada might some day develop into the manufacture of watch movements. In 1951, a further report on the possibility of this factory making watch movements was made to FH by Wosic. The Swiss watch industry organizations warned Bulova that it would be "cut right off—finished" if the Canadian factory should ever start making watch movements.

BENRUS AGREEMENT NOT TO MANUFACTURE WATCHES IN THE UNITED STATES

173. Prior to February 1936, Benrus had purchased the plant and equipment of the Waterbury Clock Co., Connecticut, which at that time had the right to import watch parts from Switzerland into the United States. After an unsuccessful attempt to get UBAH to continue to ship parts to Benrus as the successor of the Waterbury Clock Co., Benrus asked the United States Government to intervene on its behalf with the Swiss Government to help it to obtain a permit to purchase Swiss watch parts. The Swiss Government directed FH, Ebauches and UBAH to relax the Collective Convention prohibition against exporting watch parts, and to permit Benrus to import from Switzerland into the United States approximately 175,000 sets of watch parts without any restrictive conditions attached. Benrus was thus regarded under the Collective Convention of April 1, 1936, as having acquired a right to manufacture watches in the United States within the meaning of Article 21 of the Collective Convention, which prohibited signa-

tories from establishing manufacturing facilities outside Switzerland but excluded from the prohibition all facilities established prior to April 1, 1936.

174. As a result of the requirements of the defense effort during World War II, Benrus ceased producing watches in the United States in 1942 and devoted its plant to war production. By 1945, since the machinery had been used for work heavier than the production of watches, much of it was not as accurate as it had originally been. Much of the machinery had also become obsolete. Substantial rehabilitation would have been required for the manufacture of watches. In 1945, while Benrus was producing armaments, Benjamin Lazrus went to Switzerland and approached officials in Superholding and offered to renounce Benrus' watch manufacture in the United States on condition that Benrus receive a commensurate increase in its dollar quota covering the value of watches which it could ship from Switzerland to the United States. Thereupon negotiations were conducted by Benrus with Rudolph Schild, director of Ebauches and managing director of Eterna A. G., Paul Renggli, managing director of ASUAG, and Sydney de Coulon, managing director of Ebauches.

175. On July 25, 1945, Benrus entered into an agreement with ASUAG in which Benrus agreed to terminate its manufacture of watches in the United States under the following terms and conditions:

(a) Benjamin Lazrus, acting in the name of Benrus, pledged Benrus to liquidate Benrus' watch manufacturing factory in Waterbury, Connecticut in such a way that it could not be used by any other person for the manufacture of watches and that it would never again be used for such manufacture;

(b) Benrus also agreed to renounce forever the license which it had acquired in 1936 to import watch parts into the United States from Switzerland;

(c) Benrus agreed to confine its manufacturing operations in the United States solely to the production of watch cases and bracelets and to become exclusively a manufacturer of Swiss watches and cease being a manufacturer of watches in the United States;

(d) Benrus was to receive as a condition for its agreement to give up its manufacture of watches in the United States an increase in its Swiss dollar quota which governed the number of Swiss watches which Benrus could ship to the United States enabling Benrus to ship an additional 2.1 million Swiss francs' worth of swiss watches to the United States. Benrus also received the right to purchase from Ebauches two special watch calibers.

176. Benrus entered into the 1945 agreement with ASUAG to renounce the manufacture of watches in the United States entirely voluntarily and for its own profit and for the purpose of securing special privileges respecting its manufacture of watches in Switzerland. In entering into the 1945 agreement with ASUAG, Benrus knowingly and intentionally restricted the production of watches and watch parts in the United States for the benefit of the Swiss watch industry. Gruen had knowledge of Benrus' contract.

177. In 1947, Benjamin Lazrus described the effect of the contract as follows: "They give us special calibers, but we in turn give them the discontinuance of American watch manufacture by Benrus and the consequent elimination of another American watch manufacturer. This was an enormous sacrifice and we realized it at the time we entered into the agreement. We knew how valuable our asset was and so did Asuag. That is why they entered into the contract."

178. Benrus and ASUAG, with the approval of FH, Ebauches and UBAH, agreed to cancel the Benrus contract in 1954 only after learning of the Department of Justice's investigation of the watch industry and in the hope of thereby avoiding litigation or mitigating the consequences of the antitrust violations flowing from the contract. Another reason for annulling the agreement was that it had lost much of its effect due to the fact that the dollar quota system had been terminated by July 1, 1947, and the two special calibers were not used after 1951.

190. On a third occasion the DR approved the application of a Swiss signatory to the Convention to import from the United States unbreakable mainsprings for use in movements to be made for the Elgin National Watch Company, subject to certain conditions concerning advertising and the supply of the same metal from which the mainsprings were to be made. The circumstances surrounding the Elgin affair were as follows: United States watch manufacturers developed unbreakable mainsprings before their competitor Swiss manufacturers. Up to 1953, United States-produced watches therefore enjoyed a competitive advantage in this respect over Swiss watches sold in the United States. In November 1951, Elgin National Watch Company (Elgin) attempted to export unbreakable hairsprings manufactured by Elgin from the United States to certain Swiss manufacturers in Switzer-

land for incorporation in automatic movements being sold by these manufacturers to Elgin. Elgin held discussions with officials of FH in order to secure permission to export these springs to Swiss manufacturers.

191. The DR refused to permit Elgin to export its hairsprings to Swiss watch manufacturers unless Elgin would agree to make its mainspring alloy available to Swiss mainspring producers and would enter into an agreement with FH concerning its advertising in the United States of its automatic watches containing unbreakable mainsprings FH submitted to Elgin the terms of the agreement which it proposed Elgin execute as a condition of exporting its unbreakable mainsprings from the United States to Switzerland. Under the terms of FH's proposal, Elgin was to agree not to advertise the fact that its automatic watches contained unbreakable mainsprings. Elgin refused to enter into an agreement limiting its advertising in the United States and consequently was not permitted to export its mainsprings from the United States to Switzerland.

192. On the fourth occasion, the DR denied Bulova Bienne's application for permission to import hairsprings and mainsprings from Bulova U.S. During the period 1951–1954, Bulova U.S. sought to ship its American-made hairsprings and mainsprings into Switzerland for use by Bulova Bienne, but was prevented from doing so by the Swiss watch industry organizations under Article 6 of the Collective Convention. Under Article 6 of the Convention, Bulova Bienne was prohibited from purchasing watch parts from "non-Conventional" firms without special permission. The Swiss watch industry organizations treated Bulova U.S. for this purpose as a "non-Conventional" firm.

193. In this case, Bulova's position was that its mainsprings were a "specialty" and therefore were exempted under Article 6; that they were superior to Swiss-made springs; and that they were to be furnished within a single company and that Bulova U.S. should therefore not be considered "non-conventional." The Swiss industry organizations took the position that Bulova U.S. was a separate entity and "non-Conventional"; that Bulova's springs were not *ipso facto* a "specialty"; and that tests of Bulova's springs were required to decide whether or not they were superior. Bulova submitted its mainsprings and hairsprings for such tests in March 1953.

194. Although the tests indicated that Bulova's mainsprings were "somewhat better" than Swiss mainsprings, there was never a final decision as to the results of these tests. In essence, there was a "general slowdown" on this question. As late as February 1954, after a follow-up Bulova application, the Swiss watch industry organizations expressed their determination to delay any final decision as long as possible. In November 1953, almost a year after Bulova's initial request, the President of the DR advised Bulova at a meeting that the part of its application based upon its mainsprings being *ipso facto* a "specialty", was rejected. In this connection he advised Bulova that he had the power to grant permission to Bulova Bienne to manufacture hairsprings and mainsprings in Switzerland (Bulova Bienne having no permit to manufacture these items), even though the Consultative Commission of the Swiss Department of Public Economy might object thereto.

195. Bulova sought the assistance of the United States Department of State to intercede with the Swiss Government in the hope that the Swiss Government could persuade the Swiss watch industry to grant Bulova permission to ship its American-made mainsprings to its Swiss plant. The Swiss Government was anxious that FH, Ebauches and UBAH grant Bulova permission to ship its mainsprings to Switzerland, and advised several times that it had instructed the organizations to grant Bulova's request. The Swiss Government, however, did not have the power to compel the watch industry to permit Bulova to ship its springs into Switzerland, and was unsuccessful in persuading the organizations to make this exception to the provision of the Collective Convention.

196. The Swiss Government eventually supported the DR's position, and the mainspring controversy was considered both by the Swiss watch industry organizations and by the Swiss Department of Public Economy to be a question of "private law." The DR felt that "the political authorities should not interfere in this matter." FH, Ebauches and UBAH refused to permit Bulova to export its mainsprings to its Swiss plant, despite their awareness that the Convention prohibition on purchasing watch parts from non-Swiss manufacturers could be violative of the United States antitrust laws. The DR denied permission, stating that Bulova Bienne had not met any of the three conditions established by the Collective Convention (see Finding 193). One of the reasons relied upon by FH, Ebauches and UBAH for their refusal to permit Bulova to ship mainsprings into Switzerland was their concern to avoid any measure which might encourage the manufacture of competitive watch parts in countries outside Switzerland.

197. In early 1953, Bulova U.S. decided to import into the United States wrist alarm movements manufactured in Germany by Junghans, A.G., a German watch manufacturer. The manager of Bulova Bienne advised Bulova that such a purchase could only be made under the Convention if Bulova could establish that such movements could not be purchased in Switzerland. Thereupon, Bulova notified FH, Ebauches and UBAH of its intention to import these alarm watch movements into the United States from Germany and stated that it wished to purchase these alarm movements since comparable movements were not being produced in Switzerland at that time. Bulova affirmed that as soon as these movements were available in Switzerland, it would cease purchasing them from Germany.

198. Vulcain, a member of FH, protested against Bulova's importation into the United States of German alarm movements on the ground that the manufacture of watches by German manufacturers would thereby be encouraged and the competitive ability of the German watch industry would be accordingly strengthened. Initially, FH, Ebauches and UBAH, through the DR, objected to Bulova's purchase of these German-produced watches, and confirmed at that time what they had previously affirmed, that United States affiliates of Convention signatories were not permitted to purchase watch products outside of their own country from any persons other than Convention signatories. FH, Ebauches and UBAH considered this matter throughout the balance of 1953 without making any final decision. Ultimately, they advised Bulova that suc himportation would be contrary to the Convention provision prohibiting signatories from dealing in watch products produced by persons who were not parties to the Convention unless such products were unavailable in Switzerland. Bulova agreed to discontinue its importation of German watch movements into the United States as soon as such movements were available in Switzerland.

199. Bulova, Eterna N.Y., Gruen Ohio and Longines-Wittnauer refrained from exporting uncased movements from the United States.

Longines-Wittnauer's Exclusive Distribution Agreements Restricting United States Imports and Exports of Watches

200. Longines-Wittnauer executed exclusive distribution agreements with its Swiss manufacturer suppliers, Longines S.A., Thommens, Piaget, Vacheron & Constantin and Jaeger-Le Coultre which contained the following terms:

(1) Longines-Wittnauer agreed in its distribution agreements with Longines S.A. not to sell or distribute movements or watches produced by any other watch manufacturer without obtaining the consent of Longines S.A.;

* * * * * * *

RESTRICTIVE TERMS AND EFFECTS OF DEFENDANTS' COMBINATION AND CONSPIRACY

XV. The Collective Convention was intended by defendants to and did affect and relate to the activities of United States companies and to the manufacture of watches and watch parts in the United States, the United States import and export of watches, watch parts and watchmaking machines, and the sale, use and distribution of watches, watch parts and watchmaking machines in the United States.

XVI. The agreement of the defendants in the Collective Convention not to export watch parts for manufacturing purposes from Switzerland except under very limited controlled circumstances was intended by defendants to and did impose unreasonable restrictions on the manufacture of watches and on the import and sale of watch parts in the United States.

XVII. The agreement of the defendants in the Collective Convention not to manufacture watches and watch parts outside Switzerland and not to furnish watchmaking machinery, tools, dies and models and other types of financial, technical and managerial assistance to watch manufacturers outside Switzerland was intended by defendants to and did impose unreasonable restrictions on the manufacture of watches and watch parts in the United States and on the import of watchmaking machines, tools and dies into the United States.

XVIII. The agreement of the defendants in the Collective Convention not to deal in watch products manufactured by persons other than signatories of the Convention and not to permit their affiliates to deal in such non-Conventional products was intended by defendants to and did restrict the growth and development of watch manufacturers in the United States and the United States import and export of watches and watch parts.

XIX. The agreement of the defendants in the Collective Convention not to export from Switzerland various types of uncased movements and not to export any movements with temporary dials was intended by defendants to and did impose unreasonable restrictions on the manufacture of cases and dials in the United States.

XX. The agreement between FH, Ebauches, UBAH and the Roskopf Association on the one hand, and the Swiss watchmaking machinery manufacturers and the Swiss Watch Chamber, on the other hand, dated July 1946, was entered into in furtherance of defendants' conspiracy to prevent the export of certain types of watchmaking machinery to watch manufacturers in the United States and in other countries and was intended by defendants to and did impose unreasonable restrictions on the manufacture of watches and watch parts in the United States and the imports into the United States of watchmaking machinery.

XXI. In furtherance of their conspiracy to prevent the export of certain types of watchmaking machinery to watch manufacturers in the United States and elsewhere, FH and Ebauches caused Machor to be established and caused Machor to export certain types of watchmaking machinery solely under leases containing restrictive provisions.

XXII. Machor's refusal to export certain types of watchmaking machinery except on a lease basis and the provisions of the standard lease agreement drawn up by Machor for the lease of these machines was intended by the defendants to and did impose unreasonable restrictions on the manufacture of watches and watch parts in the United States, the import into the United States of watch parts and watchmaking machinery and the sale in the United States of watch parts.

XXIII. In furtherance of their conspiracy to prevent the growth of competitor watch manufacturers in the United States and elsewhere, defendants FH, Ebauches and UBAH entered into cartel agreements with members of the British, French and German watch industries prohibiting these industry members from purchasing watch parts from any person other than Convention signatories and from selling watch parts which they purchased or which they produced themselves. These cartel agreements were intended by the parties to and did impose unreasonable restrictions on the growth and development of the manufacture of watches in the United States and on the United States import and export of watch parts to and from these countries.

XXIV. Bulova, in furtherance of the conspiracy, entered into Gentleman's Agreements with ASUAG, FH, Ebauches, and UBAH, which were intended by the parties to and did impose unreasonable restrictions on the manufacture of watches and watch parts in the United States and on the United States sale, import and export of watch parts.

XXV. Benrus' manufacturing contract, voluntarily entered into by Benrus with ASUAG in July 1945 in furtherance of the conspiracy, was intended by the parties to and did impose unreasonable restrictions on the manufacture of watches and watch parts in the United States.

XXVI. Gruen Ohio's and Gruen S.A.'s contract, voluntarily executed by the two Gruen companies with FH, Ebauches and UBAH in January 1943 in furtherance of the conspiracy, was intended by the parties to and did impose unreasonable restrictions on the manufacture of watches and watch parts in the United States and on the United States sale, import and export of watch parts.

XXVII. The provisions of Longines-Wittnauer's exclusive distribution agreements with its Swiss watch manufacturer suppliers, Longines S.A., Thommens, Piaget, Vacheron & Constantin and Jaeger-Le Coultre, preventing Longines-Wittnauer from exporting from the United States watches produced by these companies and requiring these companies to ensure that their watches were not imported into the United States from third countries were designed for the sole purpose of protecting Longines-Wittnauer from price competition in the United States, were executed in furtherance of defendants conspiracy and were intended by the parties to and did impose unreasonable restrictions upon the United States import and export of watches.

XXVIII. The provisions of Longines-Wittnauer's exclusive distribution agreement with Longines S.A., prohibiting Longines-Wittnauer from dealing in any other watches without the consent of Longines S.A. were designed to further the defendants' conspiracy to eliminate the sale of non-Swiss watches in the United States and were intended by the parties to and did impose unreasonable restrictions on the United States import of watches.

XXIX. The provisions in Eterna A.G.'s exclusive distribution agreement with Eterna, N.Y., dated January 1, 1952, prohibiting Eterna N.Y. from dealing in any

other manufacturers' watches without Eterna A.G.'s consent was designed to further defendants' conspiracy to eliminate the sale of non-Swiss watches in the United States and was intended by the parties to and did impose unreasonable restrictions on the United States import of watches.

XXX. The provision in Eterna A.G.'s exclusive distribution agreement with Eterna N.Y., dated January 1, 1952, prohibiting Eterna N.Y. from exporting watches from the United States, also contained in all of Eterna A.G.'s agreements with its world-wide distributors, was part of Eterna A.G.'s worldwide distribution policy to protect its distributors in the United States and elsewhere from competition from Eterna watches imported by other persons from third countries. The provision in Eterna A.G.'s contract with Eterna N.Y. was designed to further defendants' conspiracy to eliminate competition in the sale of Swiss watches in the United States and was intended to and did impose unreasonable restrictions on the United States import and export of watches.

XXXI. The plaintiff has failed to sustain its burden of proof that the defendants agreed to establish or did establish minimum sales prices or price levels below which Swiss watches were not to be sold in the United States.

XXXII. The plaintiff has failed to sustain its burden of proof that defendants agreed to establish or did establish uniform guarantees to be offered on the sale of Swiss watches in the United States; nor did the Government establish that the defendants adhered to any agreements in fixing their own guarantees, or in the regulation of watch advertising in the United States.

XXXIII. Defendants agreed to and did boycott and blacklist United States companies engaged in the sale of Swiss watches in the United States who did not comply with FH regulations.

XXXIV. The plaintiff has failed to establish that by entering into agreements with its United States repair parts customers, Ebauches either intended to or did fix the price at which Swiss repair parts were sold by those customers in the United States. The plaintiff has failed to prove that the Repair Parts Program and Ebauches' agreements with its United States repair parts customers were anything more than normal and lawful competitive conduct, or that these activities were in any way in furtherance of defendants' conspiracy.

XXXV. Defendants' combination and conspiracy was directed toward the United States, substantially affected United States trade and commerce, and many of the acts of defendants in furtherance of the conspiracy took place in the United States.

XXXVI. The agreements entered into by defendants and the actions taken by them in furtherance of their combination and conspiracy to impose restraints on United States foreign and domestic trade and commerce were not required by any Swiss law, statute, decree or ordinance in effect in Switzerland.

ILLEGALITY OF DEFENDANTS' COMBINATION AND CONSPIRACY

XXXVII. Defendants' agreements imposing unreasonable restrictions on the manufacture of watches and watch parts in the United States are illegal under Section 1 of the Sherman Act. *Coronado Coal Co.* v. *United Mine Workers*, 268 U.S. 295, 310 (1925); *United States* v. *American Tobacco Co.*, 221 U.S. 106, 183 (1911); *Apex Hosiery Co.* v. *Leader*, 310 U.S. 469, 493 (1940).

XXXVIII. Defendants' agreements imposing unreasonable restrictions on the United States imports of watches, watch parts and watchmaking machinery are illegal under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act. *United States* v. *Sisal Sales Corp.*, 274 U.S. 268, 274–75 (1927): *United States* v. *United States Alkali Export Association, Inc.*, 86 F. Supp. 59, 66, 74 (S.D.N.Y. 1949); *United States* v. *Timken Roller Bearing Co.*, 83 F. Supp. 284, 307, 309 (N.D. Ohio 1949), aff'd, 341 U.S. 593 (1951): *United States* v. *General Dyestuff Corp.*, 57 F. Supp. 642, 647–48 (S.D.N.Y. 1944). See also *United States* v. *R. P. Oldham Co.*, 152 F. Supp. 818, 821–22 (N.D. Cal. 1957): *United States* v. *National Lead Co.*, 63 F. Supp. 513, 527 (S.D.N.Y. 1945), aff'd, 332 U.S. 319 (1947).

XXXIX. Defendants' agreements limiting exports of watches and watch parts from the United States are illegal under Section 1 of the Sherman Act. *United States* v. *United States Alkali Export Association, Inc.*, 86 F. Supp. 59, 77 (S.D.N.Y. 1949); *United States* v. *General Dyestuff Corp.*, 57 F. Supp. 642, 647 (S.D.N.Y. 1944).

XL. Defendants' agreements not to sell watch parts for manufacturing purposes and not to sell certain types of watchmaking machines to United States watch manufacturers are illegal under Section 1 of the Sherman Act and Sec-

tion 73 of the Wilson Tariff Act. *Associated Press* v. *United States*, 326 U.S. 1, 15–16 (1945); *Fashion Originators' Guild* v. *Federal Trade Commission*, 312 U.S. 457, 465 (1941).

XLI. Defendants' agreements not to deal in non-Conventional or competitive products and not to furnish aid to persons dealing in such competitive products are illegal under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act. *United States* v. *Yellow Cab Co.*, 332 U.S. 218, 224–25 (1947); *Associated Press* v. *United States*, 326 U.S. 1, 18–19 (1945); *Fashion Originators' Guild* v. *Federal Trade Commission*, 312 U.S. at 465 (1941).

XLII. Defendants' agreements to blacklist United States sellers of Swiss watches not conforming their United States sales of watches to FH regulations are illegal under Section 1 of the Sherman Act. *Klor's Inc.* v. *Broadway-Hale Stores, Inc.*, 359 U.S. 207, 213 (1959); *Fashion Originators' Guild* v. *Federal Trade Commission*, 312 U.S. at 467–68; *Eastern States Retail Lumber Dealers' Association* v. *United States*, 234 U.S. 600, 614 (1914). The illegality of defendants' action cannot be cured by a showing that compliance with the blacklist was not always rigidly enforced.

XLIII. Defendants' combination and conspiracy has operated as a direct and substantial restraint on interstate and foreign commerce of the United States and is illegal under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act notwithstanding that some of the conspirators are foreign nationals, that some of the agreements were entered into in a foreign country or that the acts of defendants were lawful in such foreign country. *Continental Ore Co.* v. *Union Carbide & Carbon Corp.*, 370 U.S. 690, 704 (1962); *United States* v. *Timken Roller Bearing Co., supra; Thomsen* v. *Cayser*, 243 U.S. 66, 88 (1917); *United States* v. *Pacific & Arctic R. & Navigation Co.*, 228 U.S. 87, 106 (1913); *United States* v. *Aluminum Co. of America*, 148 F. 2d 416, 443–44 (2 Cir. 1945); *United States* v. *General Electric Co.*, 82 F. Supp. 753, 890–91 (D.N.J. 1949).

XLIV. Defendants 'actions taken pursuant to their combination and conspiracy and in furtherance thereof affected the interstate and foreign trade and commerce of the United States and are illegal under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act.

XLV. This court has jurisdiction over the subject matter of this action and over the parties.

XLVI. Since at least 1931 and continuing to date, the defendants have been and are engaged in a combination and conspiracy to restrain unreasonably the foreign and interstate trade and commerce of the United States in the manufacture, import, export and sale of watches, watch parts and watchmaking machines in violation of Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act.

The defendants claim that this court should not assume jurisdiction over their activities because American antitrust laws cannot be applied to acts of sovereign governments.

If, of course, the defendants' activities had been required by Swiss law, this court could indeed do nothing. An American court would have under such circumstances no right to condemn the governmental activity of another sovereign nation. In the present case, however, the defendants' activities were not required by the laws of Switzerland. They were agreements formulated privately without compulsion on the part of the Swiss Government. It is clear that these private agreements were then recognized as facts of economics and industrial life by that nation's government. Nonetheless, the fact that the Swiss Government may, as a practical matter, approve of the effects of this private activity cannot convert what is essentially a vulnerable private conspiracy into an unassailable system resulting from foreign governmental mandate. In the absence of direct foreign governmental action compelling the defendants' activities, a United States court may exercise its jurisdiction as to acts and contracts abroad, if, as in the case at bar, such acts and contracts have a substantial and material effect upon our foreign and domestic commerce. See *Continental Ore Co.* v. *Union Carbide & Carbon Corp.*, 370 U.S. 690 (1962). The arguments of business necessity and foreign trade conditions asserted by the defendants cannot immunize the restraints imposed by them upon United States commerce. *United States* v. *Timken Roller Bearing Co.*, 341 U.S. 593, 599 (1951); *United States* v. *National Lead Co.*, 63 F. Supp. 513 (S.D.N.Y. 1945), aff'd. 332 U.S. 319 (1947).

Defendants further argue that a judgment in this action would be violative of the United States constitutional rights of Swiss citizens, the treaty obligations of the United States, and the sovereignty of the Swiss Confederation. All

these claims are entirely premature, and presuppose that this court intends to permit the issuance of a decree of wide scope which would have such a drastic effect. Such a presupposition is erroneous.

I cannot accept the argument that the defendants' Conventional restrictions aimed at preventing the development of competitive watch manufacturers were "not directed at the United States watch industry." The United States watch industry was the Swiss watch industry's biggest competitor, and the restrictions of the Convention have obviously had a crippling effect in this country, and were so intended.

The only question suggested here is whether the acts of the defendants have affected United States trade and commerce and, if so, whether they have restrained such trade and commerce. It is obvious from the facts that they have.

The American defendants' arguments of so-called economic necessity as a Justification for their behavior are also unavailing. If such arguments were accepted by the courts, the American antitrust laws would become a "dead letter", *United States* v. *Timken Roller Bearing Co.*, 341. U.S. at 599.

The court finds no merit in the other arguments advanced by the defendants.

Submit decree in accordance with the above Findings of Fact and Conclusions of Law or, in the alternative, if the parties desire to schedule a hearing as to the form of the decree, the court will be glad to sit with the affected parties in order to work out a decree.

Dated: New York, N.Y., December 20, 1962.

JOHN M. CASHIN,
U.S. District Judge.

EXHIBIT A

LANDED COST IN UNITED STATES—OF MOVEMENT—DUTY PAID—COMPARISON WITH PROPOSED NEW STRUCTURE AND CURRENT RATES

	6¾ by 8 17 jewels, TSUS 716.3117		6¾ by 8 C.S.—17 jewels, TSUS 716.3117		5½ inches 17 jewels, TSUS 716.3017		5½ inches 21 jewels, TSUS 716.0800		6¾ by 8—17 jewels, TSUS 716.3117		5½ inches—17 jewels, TSUS 716.3017	
	Government proposal	Current duty	Government proposal	Current duty	Government proposed	Current duty	Government proposed	Current duty	Government proposal	Current duty	Government proposal	Current duty
Movement cost	$4.06	$4.06	$4.62	$4.62	$4.35	$4.35	$4.66	$4.66	$5.81	$5.81	$6.32	$6.32
Freight and insurance	.10	.10	.10	.10	.10	.10	.10	.10	.10	.08	.08	.08
Customs duty	1.22	2.25	1.39	2.25	1.31	2.70	1.40	5.37	1.74	2.25	1.82	2.70
Total cost	5.38	6.41	6.11	6.97	5.76	7.15	6.16	10.13	7.63	8.14	8.22	9.10
Percent	(30)	(55)	(30)	(48.7)	(30)	(62)	(30)	(115)	(30)	(38.7)	(30)	(42.2)
Virgin Island costs: Benrus standards		$5.30		$6.06		$5.77		$6.46		$7.20		$8.14

Note: The Benrus standards do not consider the extra investment involved in maintaining the Virgin Islands plant and inventory for continuous production. Were these increments added, the standard costs would even be higher

EXHIBIT B

MOVEMENTS—SUGGESTED NEW TARIFF RATES BY GOVERNMENT TASK FORCE

	Suggested rate (percent)	Minimum duty	Maximun duty
Valued not over $2.50 each	(1)		
Valued at $2.51 to $3.50	35	$0.88	$1.23
Valued at $3.51 to $10	30	1.05	3.00
Valued at $10.01 to $20	16	1.60	3.20
Valued at $20.01 to $30	10	2.00	3.00
Valued at more than $30	5	1.50	

[1] $0.75 for each movement.

EXHIBIT C

BY SPECIFIC SIZE, BUT SUGGESTED AD VALOREM BASIS

	Cost average range	Estimated new duty	Total new duty	Current duty rate
(1) Mechanical movements:				
(A) Pin lever (TSUS—716.1000 through 716.1600) (20 percent plus 10 percent over) $3.50				
(B) 5½" or under (under 6/10") (TSUS—716.3017) (70 percent plus 10 percent over $4)	4.35	$2.80+$0.04	$2.84	$2.70
	6.32	2.80+$0.32	3.03	
(C) 6¾x8"—11¼" (over 9/10"—9/10"—not over 1") (TSUS—716.3117/716,3217) 60 percent plus 10 percent over	4.06	2.40+$0.01	2.41	2.25
	5.81	2.40+$0.18	2.58	
(D) 11½"—20" (1" to 1.77") (TSUS 716.3417/718.3427) 50 percent plus 10 percent over $4)	3.80	1.90+$0.0	1.90	1.80
Manual C.S.—716.3417)	5.85	2.00+$0.19	2.19	
(Auto. Cal.—718.3417)	6.79	2.00+$0.28	2.28	2 30
	8.26	2.00+$0.43	2.43	
(Auto. D/D—718.3417)	6.97	2.00+$0.30	2.30	2.30
	8.77	2.00+$0.48	2.48	
(2) Electronic (15 percent plus 10 percent over $10)	6x8			
	11.36	1.50+$0.16	1.66	1.35
	Cal.-12" 9.70	1.46+$0.0	1.46	1.44
	D/D-12" 11.25	1.50+$0.13	1.63	.90
(3) Quartz/solid state 25 percent plus 10 percent over $25) Depending on jewel count.	Average, $30	6.25+$0.50	6.75	(1)

EXHIBIT D

AVERAGE MOVEMENT COSTS AND PERCENT RELATIONSHIPS TO CURRENT DUTIES

Ligne size	1973 current average costs (1)	Current duty rates (2)	Percent rate on current 1973 costs (3)	Costs 1972 fall before devaluation (4)	Percent rate on 1972 costs (5)	Average duty Benrus proposal [1] (6)	Percent rate Benrus proposal (7)
5½-17 jewels	$4.35	$2.70	62.0	$3.50	77.1	$2.84	65.3
(TSUS 716.3017)	6.32	2.70	42.7	5.30	50.9	3.03	47.9
6¾×8-17 jewels	4.06	2.25	55.4	3.13	71.8	2.41	59.3
(TSUS 716.3117)	5.81	2.25	38.7	4.88	46.1	2.58	44.4
11½ in manual C.S.-17 jewels	3.80	1.80	47.3	3.14	57.3	1.90	50.0
(TSUS 716.3417)	5.85	1.80	30.7	5.34	33.7	2.19	37.4
11½ in automatic calendar-17 jewels	6.79	2.30	33.8	5.01	45.9	2.28	33.7
(TSUS 718.3417)	8.26	2.30	27.8	6.93	33.1	2.43	29.4
11½ in automatic day/date-17 jewels	6.97	2.30	32.9	5.78	39.7	2.30	32.9
(TSUS 718.3417)	8.77	2.30	26.2	7.44	30.9	2.48	28.2

[1] See exhibit C.

EXHIBIT E

PARTS OF WATCHES OR MOVEMENTS

	Task force proposal	Benrus suggested rate (percent)	Current duty rate
1. Watch cases and parts of watch cases:			
Gold and platinum (percent)	17.0	15.0	15 percent plus 37 cents.
Gold filled, etc. (percent):			
Valued at $2.50 or less	23	23.0	15 percent plus 10 cents.
Valued at $2.51 to $5		21.0	Do.
Valued at $5.01 to $7.50		19.0	Do.
Valued at more than $7.50		17.0	Do.
Base metal (percent):			
Valued at $5 or less	150	15.0	10 percent plus 5 cents.
Valued at more than $5		11.0	Do.
Case parts of base metal	9.5	9.5	Do.
2. Other parts:			
Dials and parts of dials 720.4000 (percent).	23.5	22.5	22.5 percent plus 1.2 cents each.
Jewels, 720.6000 (percent)	5.0	5.0	5 percent.
Bottom or pillar plate, 720.6500	$2.00	90.0	½ the duty for the complete movement for which suitable
Balance assembly, 720.7000	[1] $2.29	15.0	17.5 cents each.
Subassemblies and other parts (percent)	[1] 22.5	22.5	(1) Single parts, 27.5 percent. (2) Subassemblies, 1 cent each piece. 2 or more pieces joined together.[2]

[1] Proposal not clear.
[2] For items (1) and (2) if imported in same shipment with complete movements and less then 4 percent of the value of shipment rate equals 22.5 percent.

BENRUS CORPORATION PRESENTATION TO THE TASK FORCE OF MAY 11, 1973

BENRUS CORP.,
Ridgefield, Conn., May 11, 1973.

MR. ALLEN H. GARLAND,
Chairman, Trade Staff Committee, Office of the Special Representative for Trade Negotiations, Executive Office of The President, Washington, D.C.

DEAR MR. GARLAND: At our last meeting when we presented the Benrus Proposal for a new tariff structure conforming with the Brussels Tariff Nomenclature, we discussed the possibility of some errors in the figures on which you based your example. At that time, you provided us with a set of figures to review.

In comparing the figures you supplied with other government figures, it would appear that your office used figures based on "movements only" and did not take into consideration the duties collected on movements that came into our country as complete heads.

The figures used by the Task Force indicated that approximately five million watch movements were imported during the first ten months of 1972. However, figures received from the Department of Commerce indicate that during the 1972 calendar year watch imports of complete heads reached a total of 17,513,920 units; and watch "movements only" were 6,338.294 units, giving a total of 23,852,214 movements on which the U.S. Government collected tariffs. (See Exhibit A.)

You will note that the figures in Exhibit A indicate that in the category of "movements only," 7-jewel movements account for 30% of the total jeweled movements. But, if we take into account the total number of 7-jewel movements (including both complete heads and "movements only"), the overall percentage is only 19.8% of the total jeweled movements. Since the duty on 7-jewel movements is much lower (about one half that of the 17-jewel), this one item alone could cause an estimate of the duties collected to be as much as 8% lower than it actually would be. The difference in the mix of the other movements and the impact of the last two months could have an effect of additional 2%–3%.

Using the ten-month figures submitted by the Department of Commerce, the total value of "movements only" imported during these ten months was $30,913,-211. Therefore, the percentage of duties collected should not reflect 25.4% as stated in EXHIBIT B, but rather the more realistic percentage of 27.5%–28% of the total cost of movements.

Applying this percentage to last year's ten-month total "movements only," duties collected would range from $8,501,133 to $8,655,699. By applying the Benrus Plan against these Government figures, the total duties collected become $8,816,859. (See Exhibits C & D)

To arrive at the figures in the Benrus Plan, we applied our distribution, which we feel is a fair average, against the total jeweled movements with the exception of 8–15 jewels. (8–15 jewels are here considered electronics since from our experience, a Japanese electronic is 9-jewel and a Swiss electronic is 13-jewel.)

As you can see, the Benrus Plan varies only slightly from the duties reported collected during the past year and would thus maintain the status quo while still protecting the Virgin Island watch industry.

Another area which we discussed is the mainplate. Last year we imported and paid duties on 20,500 pieces. This year we intend to import approximately 70,000 mainplates. Since your figures showed no imports of this part, you applied a fixed rate of $2.00 duty on the mainplate. We respectfully request that you seriously consider the advalorem rate of 90% as set forth in the Benrus Plan rather than go to a fixed duty rate as set forth in your example.

We appreciate the opportunity afforded us to review your figures and to present our further comments.

Cordially,

WILLIAM J. SHANNON,
Executive Vice President, Marketing.

Attachments.

EXHIBIT A

1972 IMPORTS

Month	0 to 1 jewel		2 to 7 jewels		8 to 15 jewels		16 to 17 jewels		Over 17 jewels		Gross total	
	Units	Amount	Units	Amount	Units	Amount	Units	Amount	Units	Amount	Units	Amount
Cased movements:												
January	779,109	$2,255,707	30,372	$226,379	28,953	$494,781	222,033	$2,362,543	1,340	$99,102	1,061,807	$5,438,512
February	767,147	2,108,020	26,846	249,193	22,927	308,381	244,356	2,858,736	4,295	282,416	1,065,571	5,806,746
March	977,732	2,822,916	41,695	363,297	25,235	488,141	322,692	3,807,501	6,439	394,880	1,373,793	7,876,735
April	663,259	1,904,885	20,432	174,444	27,953	378,618	275,635	3,574,967	3,515	326,475	990,794	6,359,389
May	774,813	2,302,043	33,159	298,069	21,443	395,378	306,748	4,109,486	7,313	450,072	1,143,476	7,555,348
June	780,952	2,534,330	39,173	340,281	33,774	576,600	319,108	4,206,843	8,343	477,916	1,181,350	8,135,970
July	916,850	2,675,185	41,187	335,534	20,326	444,655	332,803	4,597,514	10,234	576,770	1,321,400	8,729,658
August	1,455,269	4,204,771	66,081	483,782	39,258	700,439	354,879	4,695,231	14,014	567,157	1,929,501	10,651,330
September	959,823	2,941,161	22,210	211,405	10,475	234,697	220,651	3,089,720	6,082	327,446	1,219,241	6,804,429
October	1,347,224	3,968,896	30,393	278,765	11,816	212,929	306,324	4,363,655	2,403	229,356	1,698,160	9,053,601
Total, 10 months	9,422,178	27,717,914	351,548	2,961,449	242,160	4,234,619	2,905,229	37,666,196	63,978	3,831,590	12,985,093	76,411,768
November	1,854,897	5,563,866	65,333	511,628	49,410	1,182,012	458,462	6,576,131	8,971	630,572	2,437,073	14,464,210
December	1,723,599	5,165,340	39,246	352,619	16,867	522,703	298,771	5,515,106	13,271	655,850	2,091,754	12,211,618
Total, year	13,000,674	38,447,120	456,127	3,825,696	308,437	5,938,534	3,662,462	49,757,433	86,220	5,118,013	17,513,920	103,087,596
Movements only:												
January	82,140	208,775	98,333	520,056	22,725	254,493	251,949	2,196,988	294	5,401	455,446	3,185,713
February	62,490	153,193	135,814	635,912	32,333	327,126	245,133	2,122,630	954	8,939	476,819	3,303,806
March	116,619	287,973	91,533	335,735	8,336	90,533	234,031	1,960,183	1,210	14,063	454,779	2,748,537
April	65,839	181,132	114,654	826,812	9,239	106,039	169,461	1,461,611	272	2,892	360,575	2,581,486
May	96,349	231,640	107,265	838,481	3,083	48,691	260,192	2,462,772	505	9,637	467,399	3,561,221
June	139,780	376,244	140,708	902,535	2,516	28,560	267,633	2,350,205	3,043	34,007	544,680	3,691,551
July	87,502	284,777	46,827	427,624	8,255	115,119	204,137	1,661,636	57	1,719	346,778	2,490,875
August	200,424	492,107	117,037	532,207	3,656	50,163	357,834	2,801,620	1,000	3,422	679,981	3,939,519
September	121,279	302,833	91,157	402,353	31,276	498,373	152,549	1,186,859	1,662	37,638	400,923	2,428,071
October	207,555	511,335	89,310	305,067	21,193	252,059	253,931	1,905,869	338	6,032	577,332	2,982,432
Total, 10 months	1,172,027	3,038,080	1,035,703	5,868,842	145,737	1,771,166	2,401,900	20,111,373	9,345	123,750	4,764,712	30,913,211
November	230,669	553,119	140,888	537,418	48,442	452,219	509,557	3,817,729	1,445	31,029	931,001	5,391,514
December	123,794	360,710	110,053	419,778	36,541	582,521	370,600	3,185,843	1,593	31,465	642,581	4,580,317
Total, year	1,526,490	3,951,909	1,286,644	6,826,038	230,720	2,805,906	3,282,057	27,114,945	12,383	186,244	6,338,294	40,885,042
Grand total, 10 months	10,594,205	30,755,994	1,387,251	8,830,291	387,897	6,005,785	5,307,129	57,777,569	73,323	3,955,340	17,749,805	107,324,979
Grand total, year	14,527,164	42,399,029	1,742,771	10,651,734	539,157	8,745,240	6,944,519	76,872,378	98,603	5,304,257	23,852,214	143,972,638

EXHIBIT B

EFFECT OF PROPOSED TARIFF SCHEDULE FOR WATCH MOVEMENTS, BY MAJOR SUPPLIER, JANUARY–OCTOBER 1972

Value bracket	Value	Present: AVE (percent)	Present: Duties collected	Proposed: Duty (percent)	Proposed: Duties collected
Under $2.50	$2,254,421	33.2	$748,777	(1)	$744,138
OV $2.50–NOV $3.50	34,032	37.7	12,816	35	11,911
OV $3.50–NOV $10	18,560,280	31.0	5,755,045	30	5,568,081
OV $10–NOV $20	9,493,277	13.4	1,267,921	16	1,518,924
OV $20–NOV $30	110,372	13.5	14,922	10	11,039
Over $30	404,006	8.5	34,482	5	20,201
Total	30,856,388	25.4	7,833,963	25.5	7,874,294
Switzerland	22,887,501	26.9	6,157,058	25.9	5,922,140
Japan	4,299,518	29.1	1,253,263	29.1	1,249,671
West Germany	2,973,982	9.3	276,047	17.9	531,177
United Kingdom	12,274	15.3	1,876	20.5	2,515
France	311,406	19.5	60,647	18.2	56,739
Other	371,707	22.9	85,072	30.1	112,052

[1] 75 cents each.

EXHIBIT C

BY SPECIFIC SIZE, BUT SUGGESTED AD VALOREM BASIS[1]

	Cost average range	Estimated new duty	Total new duty	Mean average	Current duty rate
(1) Mechanical movements:					
(A) Pin lever (TSUS—716.1000 through 716.1600) (20 percent plus 10 percent over) $3.50					
(B) 5½" or under (under 6/10") (TSUS—716.3017) (70 percent plus 10 percent over) $4	$3.50	$2.45+ 0	$2.45	$2.69	$2.70
	5.30	2.80+$.13	2.93		
(C) 6¾ x 8"—11¼" (over 6/10"—9/10"—not over 1") (TSUS—716.3117/716.3217) (60 percent plus 10 percent over) $4	3.13	1.88+ 0	1.88	2.15	2.25
	4.18	2.40+ .02	2.42		
(D) 11½"—20" (1" to 1.77") (TSUS 716.3417/718.3417) (50 percent plus 10 percent over) $4:					
(Manual C.S.—716.3417)	3.14	1.57+ 0	1.57	1.85	1.80
	5.34	2.00+ .13	2.13		
(Auto. Cal.—718.3417)	5.01	2.00+ .18	2.18	2.23	2.30
	6.93	2.00+ .29	2.29		
(Auto. D/D—718.3417)	5.78	2.00+ .18	2.18	2.21	2.30
	7.44	2.00+ .24	2.24		
(2) Electronic (15 percent plus 10 percent over) $10:					
(6 x 8)	9.69	1.45+ 0	1.45	1.36	1.35
(Cal.—12")	8.14	1.22+ 0	1.22	1.36	1.44
(D/D—12")	9.44	1.42+ 0	1.42	1.36	.90
(3) Quartz/solid state (25 percent plus 10 percent over) $25	Average $30	6.25+ .50	6.75		(2)

[1] Based on last year's prices.
[2] Depending on jewel count.

EXHIBIT "D"

THE BENRUS PLAN[1]

Movement type	Benrus distribution (percent)	Units	Duty mean average at—	Total duties
Pin lever		1,172,027	$0.75	$879,020
5½ and under	26.4	909,994	2.69	2,447,883
6x8—11¼	28.8	992,721	2.15	2,134,350
11½ and over:				
Manual wind	21.2	730,753	1.85	1,351,893
Automatic calendar	11.2	386,058	2.23	860,909
Automatic day/date	12.4	427,422	2.21	944,602
Electronic		145,737	1.36	198,202
Total				8,816,859

[1] Figures based on "Movements Only" January to October 1972.

MAINPLATES IMPORTED

Package Number	Entry number	Quantity
RM 5205	100338	500
RM 5208	116324	4,000
RM 5221	134665	3,000
RM 5232	152650	3,000
RM 5235	157529	3,000
RM 5238	171156	3,000
RM 5245	182122	4,000
Total		20,500

Mr. WAGGONNER. Are there any questions?

Mr. Duncan.

Mr. DUNCAN. How many people are employed in the domestic watch industry today?

Mr. KIAM. If you are talking about the manufacturer of component parts for watches, rather than the assembly operation, you are talking about Timex production primarily with some small production by Bulova. All the other watch companies import movements including Benrus. Benrus imports its movements to the Virgin Islands for assembly, but the component parts are purchased abroad from either Switzerland or Japan. In our case it is Switzerland and Japan. As far as the assembly operations are concerned, there are very few assembly operations left in the United States. The Virgin Islands and some more in Guam operate on a quota basis of 10 percent of domestic consumption.

The difference between the Timex production and the rest of the watch production which I have discussed is that Timex is primarily a pin lever or 1 jewel type of movement. In the rest of the watches which are almost all imported are the 17-jewel or 7-jewel categories.

Mr. DUNCAN. Do you manufacture any of your parts?

Mr. KIAM. We are currently just starting to manufacture the new technology. We are manufacturing our own quartz watches. I have been with the company 5 years and we have not manufactured anything in the United States until now. In the total cost of the watch we are currently manufacturing only 5 percent of the total cost is foreign product. The rest of it is all domestic origin either from the electronic industry or for our own mechanical manufacture.

Mr. DUNCAN. Since this is the day of testimonials I might tell you I am wearing a Benrus I thought you would be interested in knowing that.

Mr. KIAM. Thank you, sir. I might suggest on the figures, I would say that someone should resubmit the figures. I would like to have the opportunity to resubmit figures from the Department of Commerce.

Mr. DUNCAN. We would appreciate it if you would do that.

Mr. WAGGONNER. Mr. Brotzman.

Mr. BROTZMAN. Do I understand correctly that these quartz movements are manufactured and assembled here?

Mr. KIAM. It is a very interesting development. The solid state or quartz watches, the technological developments are mostly originating in the United States.

The timekeeping portion of the watch production are emanating from such companies as Texas Instruments, Motorola, Fairchild. The parts are being exported overseas where they are being included in watches which are then being reimported by the normal importers.

The only domestic manufacturers of watches of this nature of the electrionic nature to date, are primarily electronic companies and not American watch companies with the exception of Timex and Bulova. There are three types of watches. They all have the same timekeeping system which is pure electronic but here are three display systems that are coming to the fore which will make a complete revolution. The first is the ones with the hands. The second is liquid crystals which through electrical input line up and reflect light in numerical form and you have a digital surface. The third is one in which you press a button and light emitting diodes illuminate it and show up the time on a digital basis. These are all being designed here.

In short order the works of these watches will be electronic. The watch companies in my opinion will be cosmetic manufacturers who will design the cosmetic additions to the electronic input.

Mr. BROTZMAN. What property of quartz makes it desirable for use in the movement of a watch?

Mr. KIAM. It oscillates in a steady frequency that can be easily divided.

Mr. BROTZMAN. You said that this is unique and I understand from your further answer. You mean unique to this country, perhaps. You think there should be some tariffs imposed. There could be a tariff imposed under the existing law or under the administration bill. There is no problem there, is there? In other words, you are not saying that the fact that we pass H.R. 6767 or something like that would militate against having proper tariff treatment on the quartz watch?

Mr. KIAM. There might be because I believe that—and I am not saying that this necessarily is bad for the country, I am speaking now as a watch man, as an American company that is trying to build a new industry here.

There are other interests involved. There are numerous financial considerations that must always be present when dealing with Switzerland where the Swiss bankers control so much of the economy under which we operate. I believe that in effect that some things might be given away for others. I am very worried about that.

Mr. BROTZMAN. You are worried about the trade-off?

Mr. KIAM. As a trade-off, yes, sir.

Mr. BROTZMAN. I thank you for your statement.

Mr. WAGGONNER. Mr. Kiam, the administration has been conducting a study of tariff schedules. I am just curious about whether or not you have seen any recommended revisions.

Mr. KIAM. No; we have not as yet seen the final recommended revisions. We appeared before the task force twice. We found, for example, that the information available—and I am sure that might be true of other industries—the information that was being listed by the task force in making their decision was not full information. In my statement here, in the attached material, unfortunately some information presented to the task force related only to movements imported and not complete watches. When they began preparing their proposal they based it at first only on movement importation. These figures did not include the sizable amount of completed movements and cases and dials, which are called heads, that are imported in the United States.

As a matter of fact, there are more head that are imported than raw movements. So that the basis on which they calculated the duty change was prejudicial particularly to the Virgin Islands. For ex-

ample, here are the figures. The imports of completed heads were 17 million units in 1972 and movements only were 6 million. But the task force at one point used the 6 million raw movement figure in determining a new tariff structure that would be applicable.

Mr. WAGGONNER. Not having seen these schedules you have no knowledge at this point that they might have provided separate treatment for solid state watches?

Mr. KIAM. Well, I don't think they have because they have stated that this is not in their bailiwick. Under the terms of the President's instructions they are to merely transform existing tariff rates to an ad valorem rate. Therefore, this would not be consistent with their instructions.

Mr. WAGGONNER. In your conclusions you express concern about the potential for radical revisions in these tariff schedules and as a result you have some reluctance to grant the executive the authority he asked for to simplify or clarify tariff schedules. Do you have a recommended amendment to section 708 which would preclude this?

Mr. KIAM. I really don't. I heard Mr. Carmody. I think this is a very difficult area in which to operate but I do believe that a body such as the Congress, where more than one man exerts complete authority and where there is a group and consensus thinking, I believe that that should be the ultimate authority in this matter.

I think it is too severe and important to leave to one man's final authority because, wise as he may be, he cannot grasp this entire picture.

I believe also that he will have to leave many of the decisions to subordinates and I wonder whether or not they will have the interest or desire as Congress would have.

Mr. WAGGONNER. Of course, to a point the President has to assume that his subordinates have the same interests that yours do in your company. Somebody has to trust somebody somewhere along the line.

Mr. KIAM. But you are our elected officials.

Mr. WAGGONNER. Thank you, Mr. Kiam. There are no further questions.

We next have the very distinct privilege of welcoming back to the Hill a man who spent considerable time and served with more than the usual amount of dinstinction, in my personal opinion, while he served as Deputy Secretary of Defense.

Secretary Packard, we are glad to have you here. Some of us wish you were still around. We would be happy to have you around here.

Before we proceed, we have a Californian here who I think wants to say a word of welcome to you, or a couple of Californians.

STATEMENTS OF HON. DAVID PACKARD, ON BEHALF OF WESTERN ELECTRONIC MANUFACTURERS ASSOCIATION; C. LESTER HOGAN, CHIEF EXECUTIVE OFFICER, FAIRCHILD CAMERA & INSTRUMENT CORP.; AND ROBERT N. NOYCE, CALIFORNIA SEMICONDUCTOR MANUFACTURERS; ACCOMPANIED BY E. E. FERREY, PRESIDENT, WESTERN ELECTRONIC MANUFACTURERS ASSOCIATION, AND ROBERT E. HERZSTEIN, COUNSEL

Mr. PACKARD. Thank you very much, Mr. Chairman. With your permission, I would like to ask Dr. Hogan and Dr. Noyce to join me.

Mr. WAGGONNER. You proceed in your own way. Your entire statement will be included in the record.

Please introduce those who sit at the table with you, and their affiliations.

Mr. PETTIS. As a fellow Californian, I welcome you to the witness table today. I, too, regret that you are not across the river in the Defense Department.

Mr. CORMAN. I also want to welcome my fellow Californians. I am sure you understand how complex this bill is. I hope you can give us some advice as to how we can make it workable and safe.

Mr. WAGGONNER. It has been said many times, Mr. Secretary, you can't argue with success. I don't think you will get very much in the way of argument here today. So you tell us what you think.

Mr. PACKARD. Thank you very much, Mr. Chairman. Also joining us are E. E. Ferrey, president, Western Electronic Manufacturers Association, and Robert E. Herzstein of the law firm of Arnold & Porter of Washington, D.C.

Mr. Chairman and members of the committee, I am appearing today on behalf of the Western Electronic Manufacturers Association, abbreviated as WEMA.

There are 650 WEMA member companies located in the States of Washington, Oregon, California, Colorado, Arizona, Nevada, Idaho, Montana, Wyoming, New Mexico, Utah, Texas and Oklahoma. About 400,000 people are employed by these firms at the present time, and their annual volume of business is about $8 billion.

WEMA generally supports the Trade Reform Act of 1973. We have some recommendations, however. A number of them are similar to some that have been made by others during these hearings.

We think, for example, there is a need to present more fully the views and the problems of business and industries on trade matters. I can best illustrate this need for greater industry involvement by taking a few minutes to tell you about the experience of my company, the Hewlett-Packard Co., because I think we have had as much experience in international trade as anyone in the WEMA organization.

Dr. Hogan and Dr. Noyce have both made very significant contributions to what we call the solid state electronic field; semiconductors and integrated circuits. They will also have interesting stories to tell.

Rather than to read my prepared statement, I would like to ask you to take the written document and turn to page 16.

Mr. GIBBONS. We have to vote now.

This testimony is so important, I wonder if we can run over and vote and then come back. I don't want to miss the testimony.

Mr. WAGGONNER. Do you mind recessing for a moment then for that?

Mr. PACKARD. I have all afternoon.

Mr. WAGGONNER. The committee will stand recessed until 20 minutes before the hour. That will give us time to go vote and get back, Mr. Secretary.

[A recess was taken.]

Mr. CORMAN [presiding]. Gentlemen, we will proceed with the hearing.

Mr. PACKARD. Mr. Chairman, ladies, and gentlemen, if you will turn to page 16 of the written testimony I have provided, you will see there

as exhibit 1 a graph which shows the growth of the international orders of the Hewlett-Packard Co.

You will notice in 1954 the value of our international business was only a couple of million dollars, so low it can hardly be read on the curve.

In 1960 we began to establish manufacturing facilities in West Germany, the United Kingdom, and later we set up a joint venture in Japan.

In my view, much of the growth of our international business has been due to the broad experience we got operating in these countries: by establishing a position in the Common Market which was the objective of our German plant, and in the Outer Seven, which was the objective of our United Kingdom plant, and of understanding the Japanese market and building a position there which was the reason for our Japanese joint venture.

You will see that in 1972 our total international orders had grown to a level of $200 million

Those plants abroad, the ones in Germany, the United Kingdom, the joint venture in Japan and a small operation in Singapore, contributes, in terms of value added, just about $50 million to our total international business. In other words, our international business generated $150 million of exports from our U.S. plants.

In 1973 our international business is growing much more rapidly than our domestic business. In the first half our international business is almost 50 percent ahead of last year. I would predict that by the end of 1973 our total international business will have grown to about $300 million, and of that about $225 million will be products exported from our plants here in the United States.

In terms of jobs, one-third of all of our manufacturing employment here in the United States serves to build products to supply this international market.

Now let me give you a few examples of why our presence in Germany, the United Kingdom, and Japan—and we are now starting a small operation in France—is so important to the rapid development of an international market.

A few months ago we received an order from the British military for some very important test equipment for their armed forces. We would not have received that order if it were not for the fact that we have a plant in Scotland which, although it produces only a small part of the total hardware involved, could provide the backup and the assurance that the British military had someone in Great Britain that they could depend upon.

A few years ago we received an order from the German Government for some equipment to monitor the noise generated by aircraft using the Stuttgart Airport. That order consisted largely of equipment made in the United States, but because our people in Germany were able to work directly with the people at the airport we were able to get the business.

We had people there to make sure the equipment would work and, as a result, we have supplied similar equipment to many other airports in Europe and also to some in the United States.

Now, the products that we make are in the high technology category. In fact, I think I can say with reasonable modesty that Hewlett-Pack-

ard probably makes as advanced and broad a line of electronic measuring instruments as any company in the world.

Not only do we make a line of general purpose electronic measuring instruments, we make them for medical applications, and for analytical chemistry. We also make a number of small computers, calculators and various data-handling devices.

The products that we are making abroad represent only a very small percentage of our total product line. In most cases they are those which have a large enough volume in the particular local market—the Common Market or Japan for example—so that we have a reasonably viable production quantities.

In most cases we could make those products here in the United States less expensively than we can make them in Germany, in England, or in Japan. We make them there not in order to save costs but rather to have a presence in the market, in order to develop a position so that we can export from the United States the very broad line of products we make here.

One of the issues before this committee is the question of the export of technology. Here I think the products of the Hewlett-Packard Co. offer another very good example. Of the some 3,000 or more separate products that we make, only a small handful were developed outside the United States. In other words, the technology that has made possible this rather substantial growth in international business, is U.S. technology which is retained in the United States.

With a few exceptions we do all the basic design, research, and development here in the United States. I will give you a few examples of those exceptions.

Interestingly enough, of those things we manufacture abroad, only some $4 to $5 million in 1972, for example, were products that were shipped from our overseas plants to the United States. Most of these products were designed abroad and not manufactured in the United States.

You can see from this that we have been able to generate a very substantial acceptance of our products all over the world and that the manufacturing overseas has not reduced the number of U.S. jobs. It has, in fact, added to them.

We felt when we first began to establish our facilities, particularly in Germany, that it would be possible to generate some technology that we could then feed back to the United States. This has been very difficult to do.

We have only one product of unique significance that was developed in Germany. It is a medical device used to measure fetal heartbeats, the heartbeat of an unborn child, a very important technique to avoid brain damage during childbirth.

It is a very effective instrument and has been widely accepted in Europe. Amazingly enough, we cannot seem to get the medical profession in the United States to accept it.

So, here is a very important contribution that our people have made in Germany that we cannot bring back to the United States.

We will eventually I think. But so far we have not. We make two or three products in Japan which were originally designed in the United States in the 1930's. In other words, they are products of 40-year-old technology. We are making them in Japan because we have

some clever mechanical designers there and because in this case the lower cost of manufacture makes it possible for us to compete with some newer technology.

Essentially, we are providing measuring instruments with advanced technology for the world markets. We do not however, license other people to use this technology or help them build facilities to manufacture these products overseas. As far as Hewlett-Packard is concerned there has been no export of technology in any sense that lessens our ability to continue to take advantage of our technology here.

Now, one of the things that we have experienced over the years is a very difficult problem with nontariff trade barriers. The tariffs on the instruments that we produce vary from country to country and from instrument to instrument. They range from 5 percent or so up to 20 percent.

Generally speaking, we are able to compete in foreign countries with these tariff levels.

Fortunately, in our case we have been able to stay ahead of foreign technology to the extent that we have relatively little foreign competition. As far as tariffs are concerned they present not much of a problem, in fact our company would be better off if there were no tariffs going either way.

On the other hand, we have some very severe problems with nontariff barriers.

We make a small computer, and we could sell it in Japan, if it were not for the fact we are virtually prohibited from selling them there.

We had a very interesting case in France just a few days ago. A small computer that we developed in the United States is, among other things, very effective in computer-aided education. This is a technique whereby primary school youngsters use a computer program to learn arithmetic and other routine processes. It is very widely accepted and a very effective way to learn certain subjects.

We received an order for one of these computer-aided systems from a school in France. They wanted it because in their view it was ideally suited to their needs, and also there was nothing comparable available in France.

The French Government, learning of this order, want to this school and told them that if they did not cancel the order the Government would stop its grants to the school. Under this pressure the school canceled the order with the Hewlett-Packard Co. and placed it with a French company, although I am sure they did not want to do so, and the products they receive will be much less adequate.

We can cite many other cases. In some instances we have had to establish a small amount of assembly abroad simply because certain countries have a requirement that if a product is made locally the customers of that country cannot buy similar products from outside.

That was the situation we had in Australia with a simple instrument, many years ago. Under the circumstances we shipped sets of parts to a small operation in Australia and assembled them. In that way we were able to develop some sort of position in the market.

I hope that you will recognize that in addition to the many complexities and problems involved in tariff levels that these nontariff problems are also very significant.

I think it is here that the flexibility that is proposed in this bill will be helpful if it is exercised in the proper way.

Now if you will turn to page 18 in my written testimony you will see how our business has grown in the countries in which we have major manufacturing operations.

While each of the three charts shows a very impressive growth in total business, the growth of products manufactured in the United States is increasing much more rapidly than that of our foreign manufactured products. You see this is true in West Germany where, in 1972, our total business was $33 million, and less than half of that was manufactured at our German plant. Our German plant is the most efficient and effective of those we have overseas.

In the United Kingdom our total United Kingdom orders were in 1972 about $22 million and less than $5 million of that was manufactured locally. Yet, as I have indicated, if it were not for the presence of that manufacturing facility for backup and factory know-how, I can assure you that we would not have anything in the United Kingdom like the very substantial growth evidenced by this curve.

You will see even in Japan, where nontariff restrictions are more severe and where the custom tends to encourage the purchase of locally manufactured products, our total Japanese orders are going up much more rapidly than the orders for those products that we make in Japan.

In 1972 our total orders in Japan were about $22 million. About $8 million of this was made in Japan and the balance consisted of products exported from the United States.

So I think, at least I hope, that this gives you a specific example of a case where investment in manufacturing facilities and, of course, in market and service facilities, have been critical to the ability of a high technology industry to build up foreign markets at very substantial rates and that these foreign markets are largely dependent upon products made in the United States.

Now, in our written statement we have made a number of suggestions.

However, let me again emphasize that WEMA supports the Trade Reform Act of 1973 in principle. These are a few of the specific recommendations we have.

One has to do with our belief that more extensive provisions should be made for consultation with business and industry that is affected by both tariff and nontariff matters.

We believe it is very important to provide the President with the flexibility and the additional authority contained in this bill.

I recognize some people may think this is going too far, but in view of the very complex issues involved in foreign trade, and the fact that they change, sometimes very rapidly, it is important that authority be provided to respond in what I would call a much more hardnosed manner than has been the case in the past. At the same time, the response must be flexible. It must recognize the problems of our trading partners and the problems of specific industries.

We also support those parts of the bill which provide for relief for employees who are put out of work by the various consequences of foreign trade. Providing interim help and retraining has not been very effective in the past, and I don't think it will be very effective in

the future. Nevertheless, I think it is wise to provide the kind of arrangements contemplated in this bill because there certainly will be cases where they will be helpful.

I think however that adjustment assistance for employees is not a very good substitute for building strength into our exporting activities. Therefore I hope that the major thrust will be on those actions which would enable all the businesses in this country to improve their ability to compete in world markets.

We have some other recommendations but I will not go through them in detail.

There is, however, one matter I would like to say a word about. This is the proposal to put a U.S. tax on those U.S. businesses operating in areas which have a tax haven of some kind.

I have several troubles with this proposal. In the first place, I do not think it is very good foreign policy. I know that this is not the issue so far as this committee is concerned, but it seems to me it is just another case of the United States trying to tell a number of other countries what they should do.

I think if a country, for instance, Singapore or Malaysia, feels it is important to attract a high technology industry and uses a tax haven arrangement to do, that it is not really the right approach for this country to say, "Well, if you do that, U.S. business concerns are going to be taxed." As a practical matter, of course, this means that those of us who might choose to operate in these areas will be at a competitive disadvantage with companies from Japan and/or Europe or other places which choose to locate there to become more competitive.

Now, I hold very strongly to the proposition that a tax incentive is a very poor reason to take a business action; there should be some other reasons. In the case of our company, we have an operation in Singapore that was put there before tax haven status was available. We have expanded this operation into Malaysia, and regardless of tax changes, we intend to stay there.

But it seems to me, and I think this is very important, that those companies, those U.S. companies, which operate abroad should endeavor to be good citizens of the countries in which they operate. I think this is an essential requirement for American industry.

Our company has tried to be a good citizen wherever it operates and therefore it would be very difficult for us to accept a tax-free situation in the host country and then pay U.S. taxes.

In such circumstances I would prefer to say to Singapore and Malaysia, that we would pay local taxes and not accept tax-free status, because I think if taxes are going to be paid it is simply better business and better for all concerned to pay taxes in the country in which we operate.

Now, one final point. As I have already said, largely because of the smaller production quantities in most cases it costs us more to manufacture overseas. It also costs more to market and provide service abroad so there is some justification for having some tax benefits. I think the various provisions in some of the past regulations have been helpful in this regard.

So with this rather random summary of some of my thoughts, I think now I would be prepared to answer some questions.

Mr. CORMAN. Are there any other witnesses who wanted to speak before we start questions?

Mr. PACKARD. I think it might be interesting for the other people to present their case first, if you wish.

Mr. CORMAN. We will insert your full statement in the record, without objection.

[Mr. Packard's prepared statement follows:]

STATEMENT OF DAVID PACKARD, WESTERN ELECTRONIC MANUFACTURING ASSOCIATION

Mr. Chairman and members of the committee, I am David Packard, Chairman of the Board of the Hewlett-Packard Company of Palo Alto, California. Our major business is designing and manufacturing electronic test equipment. We also design and manufacture medical and analytical instrumentation, computers, computer peripherals, calculators and related high technology products.

The Hewlett-Packard Company is a founding member of WEMA and it is on behalf of WEMA and its member firms that I am appearing today in support of H.R. 6767, the "Trade Reform Act of 1973." WEMA is a trade association of 650 companies, located primarily in the Western United States. WEMA member firms share a common interest in that they are all high technology companies engaged in electronics and information technology. A preponderance of WEMA member companies are small-to-medium in size, designing and manufacturing sophisticated components and equipment for a number of end markets. Some of the types of products WEMA member companies manufacture are: semiconductor devices, such as transistors, diodes and integrated circuits; computers and computer peripheral equipment; test equipment such as oscilloscopes, signal generators, counters and voltmeters; calculators; telecommunications equipment, such as radio transmitters and receivers and, finally, components such as tubes, resistors, capacitors and similar items.

INTRODUCTION

Despite strong competition, most WEMA member companies have been successful in maintaining a technological lead over their foreign competitors and are actively selling their products abroad. In a survey taken several years ago, of the 300 responding WEMA member companies, 58% indicated that their international sales accounted for between 5% and 15% of their total sales. Another 24% of the companies indicated that their international sales were in excess of 15% of their total sales. Since that time, both the number and percentage of WEMA member companies selling abroad has increased.

My own company offers an interesting example. Since 1955, Hewlett-Packard has experienced a 30% average annual growth rate in international sales. Last year we received $200 million in international orders, close to 40% of our total volume. U.S. exports represented approximately 75% of this international volume. International markets have been particularly strong during the first half of fiscal 1973, with orders amounting to almost $140 million. This represents a growth of 46% over the comparable period of 1972 and compares to a 35% U.S. growth rate over the same period.

Similar growth has been achieved by a number of WEMA member companies who see international business as not only a way of increasing their profits, but as a way of providing jobs for U.S. employees. At Hewlett-Packard, for example, one out of every three U.S. manufacturing jobs exists to support our exports. I would also note that a healthy involvement in international business promotes the job security of U.S. workers. This is because cyclical trends in U.S. and international business tend to counteract each other—when one is up the other is likely to be down and vice-versa.

By way of further background, it is also worth noting that, in the past several years, the sale of high technology products abroad—such as those manufactured by WEMA member companies—has been one of the prime areas in which the U.S. has continued to hold its own in the world marketplace. According to U.S. Department of Commerce statistics, the favorable balance of technology intensive exports over imports was +$7.5 billion in 1957, +$9.0 billion in 1964, +$9.3 billion in 1969, +$9.6 billion in 1970, +$8.3 billion in 1971 and +$6.7 billion in 1972. For the first quarter of this year, the favorable balance in these product areas was +$2.1 billion.

While our high technology industries have tended to maintain a constant surplus of exports over imports through 1972, the more recent figures would seem to indicate that this situation will not continue if our government and industry do not begin to work together more effectively to bring the international trade and investment policies of the United States into line with the realities of the 1970's.

Our industry's involvement in international trade has made WEMA member companies acutely aware of the need for a cohesive national trade policy which will improve our ability to compete abroad with U.S. exports and, when required, by local production. To accomplish this, we believe that legislation should be enacted which would permit the United States to: (1) negotiate reductions in tariffs and non-tariff trade barriers; (2) take strong action against inequitable foreign trade practices; (3) respond to serious difficulties caused by imports, and (4) increase trade with the developing countries and with those areas of the world which presently lack Most-Favored-Nation status.

The future of U.S. trade is one of the most important matters currently before the Congress. We are well aware that the recommendations of this Committee will have a great effect on U.S. foreign trade activities for many years to come.

It is with a full appreciation of the formidable task before you that WEMA welcomes this opportunity to appear and present its views on H.R. 6767, "The Trade Reform Act of 1973," and on related measures the President referred to in his message to the Congress on April 10th.

I am especially pleased to have with me today Dr. C. Lester Hogan, President and chief Executive Officer of Fairchild Camera and Instrument Corporation in Mountain View, California. Dr. Hogan has a statement which he will present later relating to the importance of Items 806.30 and 807.00 of the U.S. Tariff Schedules to his company and to the semiconductor industry. Because of the extensive experience Fairchild has had with these provisions of the U.S. Tariff Schedule, I am sure Dr. Hogan's testimony will be of great interest to the members of this Committee.

I am also pleased to have with me E. E. Ferrey, President of WEMA. Both Dr. Hogan and Mr. Ferrey will assist in responding to any questions you might have with respect to WEMA's statement.

H.R. 6767—"THE TRADE REFORM ACT OF 1973"

WEMA supports the concept and most of the specific provisions of H.R. 6767, "The Trade Reform Act of 1973," as introduced. In our view, enactment of this legislation will improve the ability of companies within the high technology, electronics and information technology industries to sell their products in existing and in new markets abroad, while, at the same time, permit the government to deal effectively with inequitable foreign trade practices and serious import problems.

We believe the measures contained in H.R. 6767, together with the additional proposals made by the President on April 10th regarding unemployment insurance and pension programs, offer a more constructive approach to dealing with the international challenges of the 1970's than the measures contained in other proposed legislation currently before this committee. We specifically refer to automatically triggered import quotas, the severe taxation of all income earned abroad and government regulation of capital and technology outflows. In our view, such measures would be very counterproductive for, in addition to reducing incentives for U.S. firms to compete abroad and crippling their ability to do so, they would certainly trigger retaliatory actions by our trading partners. This would reduce the volume of U.S. exports, decrease the number of U.S. export-related jobs and threaten the stability of those which remain.

We realize that H.R. 6767 confers upon the President an extraordinary grant of authority for the management of U.S. trade policy. However, last year's $6.4 billion U.S. trade deficit was also extraordinary.

We clearly need a more realistic approach to the problems of international trade, to all of the problems, not just matters of tariffs and quotas. We need to be "hard-nosed" and at the same time flexible in response to the problems of our trading partners. We believe this can be done only by giving the President considerable authority, and thus WEMA supports the provisions of H.R. 6767 which centralize the responsibility for the future direction of U.S. trade policy within the Presidency. In our view this centralization of authority is required by the urgent need for a strong, but flexible U.S. role in trade matters including the multilateral trade negotiations which will commence later this year.

Some people fear that the authority contained in H.R. 6767 might be misapplied and, thus, undermine U.S. efforts which, for several decades, have been directed towards a multilateral expansion of international trade through the GATT. WEMA believes the likelihood of such misapplication is remote. In fact, a firmer U.S. attitude is desirable to help convince our international trading partners of our seriousness in seeking equity in international trade. This would strengthen GATT and help make it into a more viable, problem-solving organization.

WEMA is particularly pleased at the inclusion in H.R. 6767 of Titles V and VI which would increase trade with many areas of the world. Of special interest to WEMA member companies is Title V—Trade Relations With Countries Not Enjoying Most-Favored-Nation Treatment. WEMA and WEMA member companies have frequently urged the Administration to reduce non-essential export controls and have testified to this effect before various committees of the Congress. WEMA member companies have also supported repeal of the Dirksen-Fino Amendment to the Export-Import Bank Act which, until recently, prevented the President from extending EX–IM credits to a number of countries. WEMA believes that the United States should stop relegating an important segment of the world's economy to "second class status." MFN status is essential if trade between the United States and these countries is to be significantly increased.

At this point I want to emphasize the need to be more realistic with respect to the export controls placed on high technology products. It is essential, of course, that military products continue to be rigidly controlled. However, many of the restrictions placed on the sale of high technology products designed primarily for commercial use are of doubtful utility. Many of these products are standard catalog items which have been restricted on the basis that they might provide some possible military benefits. When, as is usually the case, these products are freely bought and sold throughout the non-communist world, they can and usually do end up in the communist countries. The net effect, of course, is that controls over these products do not really achieve their purpose. There is no doubt in my mind that our national security needs must come first, but once these needs have been met, I believe that less restrictive policies in regard to commercially available, non-military products would increase communication, promote trade, lessen tension and, thus, contribute in a broad way to our national security.

As I noted earlier, WEMA supports most of the provisions of H.R. 6767. We do, however, have some specific recommendations which we believe will strengthen the bill. Although WEMA's support of H.R. 6767 is not contingent upon the adoption of these suggestions, we hope they will be carefully studied by your committee.

ADVICE FROM AFFECTED PARTIES

Our first comment relates to the need to secure more timely and adequate advice from interested parties before trade decisions are made. For example, Section 112(a) of Title I—Authority for New Negotiations—requires that the President seek advice from certain Cabinet Departments prior to entering into any tariff or non-tariff trade barrier agreement. It does not require, however, the President or the Cabinet Departments to seek advice from appropriate industry, labor, agriculture and/or business groups. Since these are the parties who are likely to be most knowledgeable, especially in regard to non-tariff trade barriers, this omission should be rectified. This could be accomplished by adding the following sentence to the end of Section 112(a): "In developing information and advice, the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, Treasury, and the Special Representative for Trade Negotiations shall seek advice and guidance from representatives of industry, labor, agriculture and business groups which would be directly affected."

Non-tariff trade barriers are of particular concern to WEMA member companies who, operating in the areas of high technology, frequently have products with sufficient technical qualities to overcome tariff barriers, but which are excluded or limited by more covert non-tariff trade barriers. I mention one well known example: The virtual exclusion of foreign-made computers from Japan. Yet, despite the importance of non-tariff trade barriers, H.R. 6767 lacks adequate provisions for their identification and evaluation. Section 111 provides for Tariff Commission investigations and public hearings only on tariff matters. No similar arrangement is suggested for non-tariff trade barriers which, compared to tariffs, are more difficult to identify and evaluate. The need clearly exists and WEMA recommends that either the powers of the Tariff Commission be extended to cover non-tariff trade barriers, or that another Commission or organization—such as

the Special Trade Representative—be directed to operate in much the same way as the Tariff Commission in regard to the identification and evaluation of non-tariff trade barriers.

Still a third area not specifically mentioned in H.R. 6767 is the need to provide on-going consultation between the U.S. Trade Negotiators and affected labor, agricultural, industry and business groups. During the long, complex and highly technical negotiations of the Kennedy Round, the U.S. negotiating team, unlike its foreign counterparts, did not keep closely in touch with U.S. industry, labor and other affected groups and, thus, was frequently placed at a disadvantage. To avoid this in the future, WEMA recommends that language be added to Title I of H.R. 6767, which would ensure that consultation continues during the negotiating process.

DETERMINATION OF INJURY AND MARKET DISRUPTION

Section 201(b)(5) of H.R. 6767 specifies that the Tariff Commission would consider findings of serious injury or threat thereof plus market disruption to be "*prima facie* evidence that increased quantities of imports . . . are the primary cause of such injury or threat thereof." WEMA is concerned that this language would impose a relatively simple "mechanistic" solution to what are often very complex matters. It seems probable that situations could arise in which injuries occur and the market is disrupted but the causes have little to do with increased imports. In such a case the wrong remedy—import relief—might be applied to a poorly diagnosed sickness. For this reason WEMA recommends a rewording of Section 201(b) (5) to remove the "automatic trigger" features in favor of appropriate language which would ensure Tariff Commission investigation and consideration of all relevant factors before reaching a decision calling for Presidential action.

PUBLIC HEARINGS

Another area of concern to us is the need for public hearings which preferably would be held before any action is taken that would affect our trading relations with other countries. These hearings would permit the views of all affected parties to be heard and evaluated. The lack of adequate hearings in Section 301, Title III—Relief from Unfair Trade Practices—is a good example. Section 301(c) would merely require the President to "provide an opportunity for any interested person to bring to his attention any foreign restrictions" relating to unfair trade practices. Moreover, "such opportunity shall be provided prior to the taking of any action *only* if the President determines it feasible or appropriate" (emphasis added).

It is difficult for us to conceive of an unfair trade practice so dire that retaliatory action must be taken before hearings can be held. For this reason, WEMA recommends that Section 301 (c) be reworded to require hearings prior to action and, further, that the scope of these hearings be broadened to permit testimony to be taken from U.S. exporters, importers and other interested and affected parties pertaining to possible retaliation which might be encountered as a result of Presidential action.

We also note that so far as Section 402—Withdrawal of Concessions and Similar Adjustments—and Section 408—Authority to Terminate Action—of Title IV—International Trade Policy Management—are concerned, public hearings are to be held after the President takes action and then only if requested within 90 days after such action. In view of the importance of considering the interests of all parties, it seems appropriate to ask whether these hearings should also be held before the fact and should be made mandatory.

TARIFF ITEMS 806.30 AND 807.00

Section 203(a) (2) of Title II—Relief from Disruption Caused by Fair Imports—would permit the President, as a means of providing import relief, to suspend in whole or in part the application of Tariff Items 806.30 and/or 807.00. These Tariff Items stimulate the purchase of U.S. origin parts and components by permitting their duty-free re-entry into the United States when contained in products manufactured or further processed abroad. WEMA believes that the potential suspension of these Tariff Items would increase the sale of foreign made parts and components and, also, cause additional manufacturing operations to be transferred abroad. To avoid this possibility which would be detrimental to the interests of U.S. industry and U.S. labor and which appears to be wholly unnecessary in view of the authority to generally raise duties under

Section 202(a)(1), WEMA recommends deletion of Section 202(a)(2) from Title II of H.R. 6767.

WEMA's views on the importance of Tariff Items 806.30 and 807.00 to U.S. industry and labor are supported by the conclusions of the U.S. Tariff Commission. After extensive hearings on this matter in 1970, the Commission found that the net effect of repeal would be a $150–$200 million deterioration in the U.S. balance of trade and a net loss of U.S. jobs. As it relates to the likely impact of repeal on our industries, the Tariff Commission found that:

1. ". . . repeal of Items 807.00 and 806.30 of the Tariff Schedules of the United States would not markedly reduce the volume of imports of the articles that now enter the United States under these provisions. Rather, the products would continue to be supplied from abroad by the same concerns, but in many cases with fewer or no U.S. components, or by other concerns producing like articles without the use of U.S. materials."
2. ". . . repeal (of Tariff Items 807.00 and 806.30) would probably result in only a modest number of jobs returned to the U.S., which likely would be more than offset by the loss of jobs among workers now producing components for export and those who further process the imported products."
3. ". . . elimination of . . . Item (807.00) would significantly affect the cost of imported semiconductors. In the short run, the added costs would probably be absorbed by the producers of these articles. In the long run, because of price competition, its elimination would provide a significant impetus to increase the amount of manufacturing that would be performed abroad."

ADJUSTMENT ASSISTANCE

WEMA supports the expanded and liberalized adjustment assistance provisions for employees—support payments, retraining, job search and relocation—specified in Chapter 2 of Title II—Relief from Disruption Caused by Fair Imports. International trade is subject to continual change and so it is particularly important that affected employees be able to obtain prompt and adequate relief from the effects of disruption for at least a reasonable time.

Adjustment assistance for workers, however, is no substitute for a sound and viable local business offering secure jobs. A temporary slowdown of imports, by means of the import relief provisions of H.R. 6767, is probably insufficient to restore many impacted firms to economic health. Many of these firms require outside assistance. This is particularly true with firms operating in areas of lower technology where a substantial technological uplift may be the only answer. Upgrading technology is a difficult and expensive process and cannot always be done. On balance, however, we believe it is as important to try to restore an ailing firm to economic health so that it can then offer secure and expanding job opportunities as it is to spend similar amounts of money assisting unemployed workers to find jobs outside their home areas and then spending additional sums in relocation once jobs have been found! It is true that adjustment assistance for firms has not worked well in the past, but then neither has adjustment assistance to workers. What is needed and what WEMA recommends be written into H.R. 6767 is a liberalized and expanded adjustment assistance program for firms; a program which should be similar in many respects to that which H.R. 6767 offers to workers.

PUBLIC DISCLOSURES

WEMA believes that action taken under Title II to regulate imports and/or provide adjustment assistance can have a substantial impact on consumers, labor, agriculture, industry, and a host of other interests. For this reason WEMA believes that Section 202(b), which requires the President to report to the Congress only if he elects not to provide import relief, is totally inadequate. WEMA recommends that additional language be included to require the President, once he selects a specific course of action, to publicly disclose the action and the reasons why that specific action or combination of actions under Sections 202(a) and/or 203(a) was taken among the available alternatives—increased duties, quotas, orderly marketing arrangements, adjustment assistance, etc.

PROTECTION OF AFFECTED U.S. PARTIES

Chapters 1, 2 and 3 of Title III—Relief from Unfair Trade Practices—do not offer any protection to U.S. importers and others who may be seriously injured by sharp and unexpected increases in duties. To rectify this, WEMA believes that provisions should be included in each of these chapters to exclude shipments in transit from increased duty assessments. Moreover, WEMA recom-

mends that language be added, perhaps similar to the rules which were developed as a result of the August 1971 temporary 10% import surcharge, to cover other obviously inequitable situations.

REVIEW OF ACTIONS TO CORRECT UNFAIR TRADE PRACTICES

Chapters 1, 2 and 3 of Title III do not provide for any review—Congressional, Judicial or otherwise—of actions taken to respond to unfair trade practices. WEMA believes that actions as important as these are to U.S. trade should be subject to some review. Insofar as Chapter 1—Foreign Import Restrictions—is concerned, we believe that Congressional review is the most appropriate. Further, we believe that the Congressional review procedures should be patterned after the 90-day arrangements outlined in Section 103(e)(2) of Title I, but commencing after action has been taken. Insofar as Chapters 2 and 3—Anti-Dumping and Countervailing Duties—are concerned, WEMA believes that the review should be Judicial, perhaps similar in nature to the review procedures in Section 350(b) of Title III.

TAX PROPOSALS

I would like to turn now to the international tax proposals which are before your committee and specifically to those of the Treasury which were submitted on April 10. WEMA has carefully analyzed the effect that a number of these tax proposals would have on the international activities of its member companies. It is our conclusion that if even the first two Treasury proposals—admittedly more reasonable than many of the others—become law U.S. corporations would be severely handicapped. Foreign firms would enjoy the tax incentives denied U.S. companies and thus our competitors abroad would be able to compete more effectively in the local market, in third countries and even in the United States.

To understand our reasoning, it is important to consider our high technology industries and their international activities in the following context:

1. Most WEMA companies do not manufacture abroad. Those that do, like the Hewlett-Packard Company, find that manufacturing abroad enables them to meet foreign competition much more effectively with *U.S. manufactured products* as well as with foreign manufactured products.
2. In many cases if manufacturing abroad was not undertaken, a substantial part of the local foreign market, often the entire market, would be lost to non-U.S. companies. The importance of this to U.S. high technology firms should not be underestimated. Foreign markets are prime growth areas and many U.S. companies, particularly those in electronics, have a considerable advantage in technology.
3. The loss of foreign markets would have an adverse effect on U.S. employment and U.S. prices: employment because many U.S. jobs exist to support U.S. exports of finished products and, also, because U.S. manufacturing subsidiaries abroad are among the major purchasers of U.S. origin parts, components and raw material; prices because a loss of exports would reduce U.S. production volumes lowering efficiencies and increasing costs.
4. The loss of foreign markets would have a severe effect on corporate profits and on the U.S. balance of payments which would no longer benefit from the receipt of as many dividends and other payments derived from these operations.

Let me use my own company to illustrate some of these points. As I mentioned earlier, last year Hewlett-Packard received $200 million in orders from outside the United States. This represented about 40% of our total orders and is a substantial increase from the average 10 to 12% in international business we received during the 1950's, before we began to make investments in marketing and manufacturing facilities abroad. Thus far in 1973 our international markets have been especially active; international orders at close to $140 million for the first six months are up 46% over the comparable period of fiscal 1972. We look forward to strong continuing growth for the balance of the year. Over the years the Hewlett-Packard Company has strongly supported the U.S. balance of trade. From 1965 to 1972, for example, we made a positive contribution of over $500 million to the U.S. balance of trade.

It is interesting to examine the composition of our international orders in terms of U.S. exports and products manufactured abroad. You will note from Exhibit I that the value added abroad was almost $53 million, or slightly over 10 percent of total corporate orders in 1972. The gap between the two curves represents our U.S. exports—in 1972 about $147 million, or 29% of the corporation's business, and some 74% of our international volume.

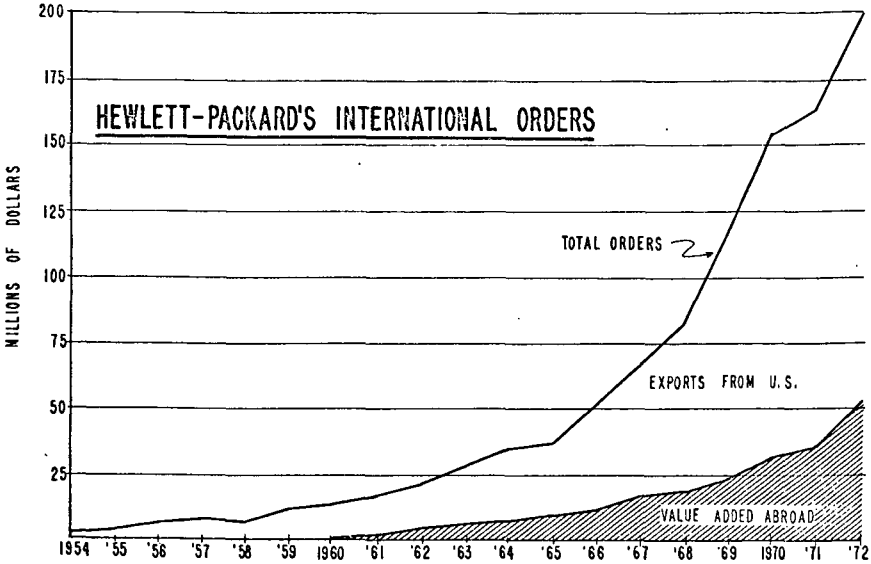


EXHIBIT 1

Clearly this export activity requires a proportionate amount of our total employment—development and production engineers, manufacturing people, clerks, accountants, etc. So far as manufacturing is concerned, over 5,000 jobs, one-third of our total U.S. manufacturing employment, exists to support our international activities—which in turn have grown so fast only because of the investments in marketing and manufacturing facilities we have made abroad. 3,300 of these jobs in California, 1,200 are in Colorado and the balance is distributed among the states of Massachusetts (over 300), Pennsylvania (150), and New Jersey (almost 200).

Let's look at these growth figures. They show that Hewlett-Packard has grown much faster than the growth of the U.S. economy. In the years 1960 to 1970, for example, the average annual increase of U.S. gross national product was a little less than 7 percent. For Hewlett-Packard's sales as a whole, it was slightly over 16 percent, but for our exports the annual average increase amounted to almost 28 percent!

Similarly, while total employment in the U.S. grew less than 2 percent per year from 1960 to 1970, Hewlett-Packard's manufacturing employment in the U.S. rose at an average annual rate of about 14 percent, while our U.S. manufacturing employment dependent on exports averaged a *24 percent annual increase.*

In every case where we have established a manufacturing plant abroad, the principal motive has been to protect and expand our markets outside the United States. Manufacturing at these locations largely eliminates local tariffs. This makes our products more competitive with those of local manufacturers. Actually, we manufacture a limited number of products abroad and these tend to be our more standard, less technically sophisticated items. The major market for products of high technical sophistication is the United States and since the technical superiority of these items generally permits us to overcome foreign tariff and non-tariff barriers, it makes good sense to concentrate their production in the U.S.

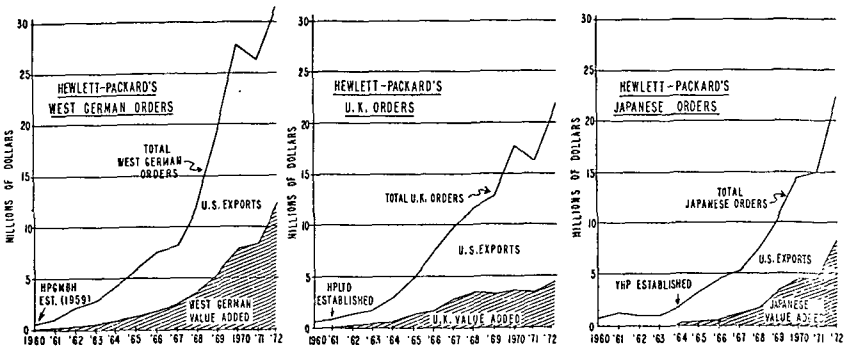


EXHIBIT 2

The three charts in Exhibit 2 show that orders for our U.S. products increased dramatically after we established manufacturing plants in West Germany, the United Kingdom and Japan. Manufacturing even a relatively limited variety of products overseas identifies us as a local supplier and thus benefits all of our product lines and services. As a result, exports to those areas of products manufactured only in the U.S. have grown significantly faster than the sale of products manufactured abroad. I am convinced that if we had not begun manufacturing in West Germany, the United Kingdom and Japan, we would not have secured anywhere near as large a portion of these markets.

Hewlett-Packard's experience is matched by the experience of a number of other WEMA member companies. These companies have found that manufacturing abroad to penetrate growing foreign markets has increased their U.S. exports and provided greater and more stable employment opportunities to their U.S. employees.

With this as background, let me say that WEMA thoroughly agrees with the comments made by the President in his message of April 10th, "that investment abroad, on balance, means more and better jobs for American workers." We also believe that U.S.-controlled business abroad should be permitted to operate, so far as possible, under the same tax burdens which apply to their foreign competitors and that taxes paid abroad should continue to be directly creditable against U.S. taxes. Only in this way can U.S. subsidiaries abroad compete with their foreign competitors on a fair and equitable basis. Finally, we believe that the Congress should enact only those changes in the U.S. tax laws which would remedy specific situations. The Congress should *not* enact a comprehensive series of new tax rules and regulations which would handicap U.S. firms operating abroad, permit foreign competitors to seize market opportunities, and ultimately, result in a loss of jobs here in the United States.

As a matter of fact, international operations are complicated and often more costly than comparable operations in the United States. At Hewlett-Packard we find that the lower manufacturing labor rates abroad are steadily rising and tend to be offset by higher material costs. Our overseas plants have to pay the cost of importing many of their parts and components, and they also do not enjoy the higher efficiency and lower units costs of long production runs. When you add these up, some products may actually cost more to produce abroad but, because tariffs are largely eliminated, can be sold locally for less than identical products imported from the United States.

In addition, marketing costs abroad are higher. Qualified sales engineers are difficult to find and to retain. Customers tend to be scattered more widely, need greater assistance and pay their bills more slowly than their U.S. counterparts. Adequate after-the-sale-service is also costly. Skilled service personnel and sizable parts stocks are necessary but frequently under-utilized compared to similar situations in the United States.

In view of these and other complexities, to be successful abroad many U.S. firms have to make a greater investment and take greater risks than they would in the United States. Under these circumstances, measures that call for limits on international investment and special taxes on profits earned abroad blunt incentives and severely limit competitive ability. To become truly competitive

abroad calls for latitude in the investment area and for fair and equitable taxation abroad *and* in the United States.

In this light, WEMA has welcomed the Domestic International Sales Corporation (DISC) legislation passed by the Congress and signed by the President at the end of 1971. WEMA believes the DISC concept is an extremely useful one. In fact, we believe the committee should seriously consider stimulating further export efforts by increasing DISC deferrals to 75 or 100 percent. A less comprehensive alternative but one with a relatively small impact on tax revenues, would be to permit greater DISC benefits to smaller exporters or to those firms new to export—say 100% deferral on annual exports of $1 million and under. Still another useful way to increase exports without too great an immediate loss in tax revenues would be to permit larger exporters to claim 100% deferral on their increase in exports over the previous year. This 100% deferral on increases would be, of course, in addition to the 50% deferral applicable to the volume of exports achieved the previous year.

As I mentioned earlier, WEMA believes that if the first two Treasury proposals become law, U.S. corporations operating abroad will be severely handicapped. In addition, we believe that the imposition of taxes which would discriminate against countries offering "tax holidays" and those with relatively low taxes is very bad foreign policy. What it does, in effect, is to tell those countries (usually lesser developed) that have decided to use tax benefits to establish an industrial base and thereby contribute to the welfare of their people, that they are wrong and that the United States knows what is best for them and best for the world. Such assertions are certainly contrary to the best that is in the American character, and for that matter run counter to the provisions of Title VI of H.R. 6767 which seeks to extend a generalized system of U.S. preferences for the products of the developing countries.

Frankly, I believe these measures would drastically damage the progressive image of the United States and limit the contribution that U.S. companies can make to the peoples of the developing countries of the world. This is particularly true in regard to companies operating in advanced technology areas such as those represented by WEMA.

Let me again turn to my company's experience as an illustration of some of these points.

The Hewlett-Packard Company is operating a plant in Singapore and is now building a plant in Malaysia. We decided to manufacture in these areas because the only way we can compete on a worldwide basis is to obtain an assured and lower-cost source of computer memory cores and a few other critical components. We had previously obtained memory cores from other Far East sources owned by U.S. companies. Some critics like to claim that the main reason these products have never been made in commercial quantities in the U.S. has been the cost of labor. Actually, we attempted it here, but found that Americans are just not temperamentally suited to the intensive assembly work required in stringing core memories.

We have recently expanded our activities in Singapore to manufacture small calculators for sale in markets outside the United States. Singapore is at the crossroads of a very large market among emerging nations. Our manufacturing operations there will enable us to become an integral part of that market, just as our other international plants do in their markets. In addition, by doing a larger share of the job in Singapore, we have been able to qualify for "tax holiday" status. This will permit us to improve our competitive marketing position outside the U.S. and we are pleased that in doing so we will be providing exciting opportunities for the young people of Singapore, many of whom have had a technical education but up until now have had no real opportunity to fully utilize their talents.

It should be emphasized at this point that our initial decision to manufacture in Singapore and Malaysia was not based on attaining a "tax holiday" status. I do not believe that making decisions mainly on the basis of "tax holidays" is good business policy. Now, however, that we have located in the area for sound business reasons, the availability of "tax holiday" status has been a prime reason for the expansion of our commitments in Singapore and Malaysia.

We believe American business has a responsibility to make sure that their foreign operations are *good citizens* of the nations where they operate. Part of this is paying a proper share of taxes in the host country. In accordance with this principle we believe it would be much more important for us to pay taxes abroad where the profits are generated rather than to pay "in

lieu" taxes in the United States, as proposed. Accordingly, if the Treasury's proposal on "tax holidays" is passed, the proper action for the Hewlett-Packard Company would b ea pay a pair share of local taxes rather than ask ing the governments of Singapore and Malaysia to continue our "tax holiday" status.

SUMMARY

In conclusion, Mr. Chairman, I would simply say that WEMA supports the concept and most of the provisions contained in H.R. 6767. We believe that this legislation will put the United States on much the same footing as our major competitors and thus enable the President to deal more effectively with our trading partners around the world. We have offered a number of suggestion—additional advice, hearings, retention of Tariff Items 806.30 and 807.00, adjustment assistance for firms, etc.—which we believe will strengthen the bill. We hope you will consider these suggestions carefully in executive session.

With respect to the various tax proposals before your committee, WEMA urges the Congress *not* to enact tax rules and regulations which would handicap U.S. firms operating abroad, and permit our foreign competitors to seize market opportunities to the ultimate detriment of U.S. industry and labor. The United States has a responsibility to the developing countries of the world. It is in this context that I particularly object to the "tax holiday" provisions of the Treasury Department's tax proposals.

WEMA believes that any changes in our tax laws affecting U.S. trade and U.S. firms operating abroad should be made with the objectives of increasing the export of U.S.-made products, parts and components and permitting U.S. companies to operate abroad on the same basis as their foreign competitors. Action along these lines in the tax area would be consistent with the objectives of H.R. 6767.

This concludes our formal presentation; we will be pleased to respond to any questions the committee may have.

Mrs. GRIFFITHS. I think your statement is excellent. I read as much as I could, and I enjoyed listening to your explanation. Obviously you have done a wonderful job both for your company and for America.

I would like to ask you: I think you heard the watchmakers testify, and obviously they have a different problem. They use the laws of the country in a different way than you have used them. What percentage of any unit price, of anything you make, I don't care what it is, you don't need to tell me what it is nor what the unit price—but what percentage of the cost is labor?

Mr. PACKARD. In general the percentage of what we call direct labor, the factory labor, is in the range of 10 to 15 percent of our shipments. This indicates, you see, that we have a somewhat different problem because we also spend 10 percent of the sales price on research and development.

That very high percentage of technological content means, for our company, that areas of low-cost labor are not particularly critical. I think that is true of most high technology companies with perhaps, the exception of semiconductors, which Dr. Noyce will tell you about.

Mrs. GRIFFITHS. What percentage of your cost is capital?

Mr. PACKARD. That's an interesting question. A few years ago in our particular industry capital costs were very low. In the early days all you needed to build many instruments was a soldering iron and a pair of pliers and maybe a drill press.

Today, as we move into more complex and newer kinds of devices, the capital costs are tremendously important and are increasing rapidly. I don't have the figure offhand, but our total capital investment is a little over 50 percent of our annual volume.

In a sense I think that the importance of capital to our industry was brought out during the earlier testimony of the watch people. The movement of the electronics industry into semiconductors, large-scale integrated circuits and other mass-produced devices requires a great deal more capital.

Mrs. GRIFFITHS. But the thing that is impressive is that when you move up to situations where 80 percent of the cost is labor, then they use the laws in a different way. They move the factory abroad, get the work all done there, and ship it back here for final assembly, so America does lose jobs.

Our problem is to make a law that fits you and that situation.

I personally am not going to be willing to leave it to the President or to anybody designated in his place.

I just feel that this is the wrong year to start that.

Nevertheless, I would like to know some more about this. When you began, did you do some defense work, originally, when you first started?

Mr. PACKARD. Our company has from the very beginning concentrated in the field of electronic instruments. We have designed instruments and put them on the market as standard catalog articles. Some of these were needed bythe Defense Department—the Army, Navy, and Air Force.

In a few cases we have made some modifications of commercial devices for defense applications.

During World War II we made a few things specifically for the military, but we have not done that for many, many years.

Mrs. GRIFFITHS. Have you participated in any of the space work?

Mr. PACKARD. We have participated in space work, but again only indirectly. Essentially almost anyone who does electronic work needs instruments of the type we make. What we make is tools for the electronic trade.

Mrs. GRIFFITHS. I am moving up to the question. Do you feel that one of the real things that has been of value to you is that fallout from the advanced technology of the United States or is it fallout from the advanced schooling of the United States, from MIT and from Berkeley and from those places, is this one of the great helps?

Mr. PACKARD. Let me say I think it is some of both. I can give you a good example of what I mean.

In the Palo Alto area, which is adjacent to Stanford University, a very exciting and important complex of electronic companies has grown up. I think that it is safe to say that the influence of Stanford University was a major factor in the start of our company.

So the fallout has been in many ways from education.

If you look around the country, you will see also that there has been a buildup of advance technology industries around Cal-Tech, Berkeley, Princeton, and MIT, among other places.

So education has been, without question, a very important factor.

Let me just say a word about the other aspect for there has been some very significant fallout from the high level of defense and space expenditures. Very specifically the demand for high reliability components by the defense industry in the 1950's and, later, by the space program, brought about developments in the U.S. components industry that was far ahead of anything done in Europe or Japan.

When we first began manufacturing in Europe, it was impossible to buy local components that were of quality good enough to go into our products, and this was simply because there had not been a comparable effort in Europe to manufacture higher reliability components.

So there have been several factors at work. These are both important factors.

Mrs. GRIFFITHS. How long do you think it will be before other nations will have the ability that we now have? I can remember when this Nation said, laughingly, the Japanese will never learn to fly. That was right before Pearl Harbor.

So what I wonder is how long will it be before all the rest of them can do just as much as we can.

Mr. PACKARD. Well, I am confident that the United States can and will stay ahead in many areas of technology. I am convinced that in the very important field where our company is involved that we will continue to stay ahead of the other people. That has been the whole name of the game for the last 20 years. I don't see that we will have any more difficulty staying ahead in the next 20 than we have had in the last 20. I think that can be done.

Mrs. GRIFFITHS. I hope so. I hope you are here to do it, too.

Mr. PACKARD. Let me just say one thing about your concern about giving the authority to the President. I understand that concern and I respect your views.

Mrs. GRIFFITHS. It is not even partisan. I must say, I agree completely with whoever it was who pointed out, no matter which party is in power, we send somebody abroad to negotiate who kindly gives away what is left.

It seems to me that is the way we have been operating.

Mr. PACKARD. The point I want to make is one that you have already brought out. There are great variations among inndustries. Some have a low direct labor content. Some, like those you referred to, have a high direct labor content. Some have very tough competition. Some are sensitive to tariff rates and others are not.

It seems to me in view of the great complexities of foreign trade, it is very important to have a mechanism that can respond flexibly. I think it has to be, as I have already said, a hardnosed response. I think we have given away more in the past than we should. I think we should have been tougher with Japan particularly in terms of their nontariff restrictions this would have helped American business and industry. But I just don't see how this can be done within a relatively inflexible, unwieldy legislative process. Some delegation is required.

Mrs. GRIFFITHS. They have a lot of power they haven't used yet. I think in general the President has had power that has not been used properly. I think really the power of this market is the greatest power we have. It is the greatest market. It seems to me that our market really is as if in a cold world you had lighted a bonfire.

What is really happening when you put those plants in every other country they bring a stick and light a fire of their own from our fire, it seems to me. I think that is really what happens.

So, just to get into this market is a value so great that it seems to me we ought to be able to make way to clear a path for the sale of our own goods in other markets.

Mr. PACKARD. I agree with you there.

Mrs. GRIFFITHS. Thank you.

Mr. CORMAN. Mr. Pettis.

Mr. PETTIS. I have not read the testimony, but I am looking forward to it. Maybe you would like to make some observations as to the value or lack of value of the DISC which exists, hopefully, we thought, for the benefit of operations such as yours.

Mr. PACKARD. Yes. Well, I think the DISC has been a valuable mechanism for encouraging people to move into international business. As I have already said, international business tends to be more expensive, particularly for small companies just getting started. They need a little assistance. I think that DISC can be very important from that standpoint.

We have some suggestions in my statement of ways the DISC arrangements might be modified to lean a little more toward helping small companies rather than large ones.

I think that it has been a good program. I would hope it will be continued, perhaps with some modifications along the lines we have suggested.

Mr. PETTIS. We have had some testimony to the point that DISC really hasn't been very helpful. Maybe the reason is that we have not been as helpful as we might have been to the smaller companies who are considering taking advantage of this kind of an operation.

Mr. PACKARD. Well, one of the troubles, of course, is that international trade is a very complex business. It takes some time to just learn about it and to learn how to operate.

I think that the Commerce Department, some of the other Government agencies, and certain industry associations have been helpful, but selling abroad is still something that scares a lot of small companies. They don't know quite how to go about it. I think if anything could be done through the DISC process to provide a little more encouragement for the smaller companies, that would be a constructive direction to take.

Mr. PETTIS. I don't like to take us away from the trade aspects of our conversation this afternoon, but we don't have you here every day.

We just finished some hearings on the subject of tax reform. In view of the fact that I am sure WEMA has some feelings about this, one of the subjects that has been under a great deal of discussion is the repatriation of profits and how we might equitably deal with this.

As you know, some of the proposals are a little preposterous and others may be a little less so. How do you feel about this particular subject?

Mr. PACKARD. Well, I think that some of the more drastic proposals to repatriate profits when they are generated are very difficult, very troublesome. In the first place, it takes more capital, at least in our experience it takes more capital to operate in these markets.

Goods are in transit for a long period of time, and therefore more money is tied up in inventory. The turnover in accounts receivable also tends to be longer. Frankly, we have found it very difficult to generate profits abroad fast enough to finance our growth which as you have seen, has been rather substantial. Some of the tax proposals would make it very difficult, if not impossible, to generate the resources to finance such growth.

Now certainly there are other mechanisms, for example, borrowing abroad. We use these—I think, however, you should be very careful about any drastic change requiring that profits be repatriated, so long as they are being used constructively in the business. I can understand that there is little reason to allow accumulations that are not being used effectively.

Mr. PETTIS. One last question. You mentioned in the beginning something about some equipment that you had developed in Germany, this monitoring device for fetal heartbeats. I would like to ask the question: How did that get stopped in this country; was it an agency of the Government or a lack of interest on the part of the medical profession?

Mr. PACKARD. That is an interesting circumstance. It seems that the medical profession in the United States has not yet been willing to accept this technique whereas it is accepted by the medical profession in Europe. That is our problem, not yours.

Mr. CORMAN. Mr. Duncan.

Mr. DUNCAN. No questions, thank you.

Mr. CORMAN. Mr. Brotzman.

Mr. BROTZMAN. I thought your points were very well made relative to your domestic employment in relationship to your exports. I am just looking at these graphs on page 18. I think you said that approximately one-third of the employment is to sustain our export position. Is that correct?

Mr. PACKARD. Yes, sir. One-third of our domestic manufacturing employment supports our company's exports.

Mr. BROTZMAN. I think you said of WEMA that there are about 400,000 jobs; right?

Mr. PACKARD. Yes.

Mr. BROTZMAN. So that roughly one-third of those 400,000 are to support that export?

Mr. PACKARD. No; you can't extrapolate that number, because our company has a higher percentage of exports than the average in WEMA. Our foreign business is 40 percent of our total business. I think this is one of the highest in the WEMA group.

There are some WEMA companies that have, maybe, only 10 or 15 percent of their business exported, and also, as I think you will see when you hear Dr. Hogan and Dr. Noyce, that there are differences in company to company in the character of the business. Another way of putting it is that whereas 40 percent of our business is abroad, only 25 percent of our employment is overseas. That is just another way of saying our international business generates a very substantial number of U.S. jobs.

This year we will add between 5,000 and 6,000 jobs to our company. About 2,000 of these will be because of our rapid growth in international business this year. Our foreign trade generates a very substantial number of jobs in the United States.

There is another aspect which I have not mentioned. Quite often the economy in Europe or Japan or elsewhere in the world tends to counterbalance the economy of the United States; one is going up while the other is going down. Our export business thus tends to stabilize our total employment so we get an additional benefit.

Mr. BROTZMAN. I heard you mention nontariff barriers several times in your excellent statement. You are not unique; we have been hearing a lot of people talk about them and the large numbers of NTB's. I guess there must be about 800 of them, according to testimony we have had.

You have had a lot of experience with them. I think you are acquainted with the provision of the proposed law, H.R. 6767, which gives the Congress the power of veto within 90 days after agreements made by the President to negotiate away NTB's.

Basically my question is: Could you tell us a little bit about your experience with NTB's?

Mr. PACKARD. Yes. We have had a good deal of experience. Let me just give you another example, this one about Brazil. As I indicated earlier, the tariffs on most of our equipment are in the range of 5 to 20 percent, say 10 to 15 percent is typical. There may be some more than that.

In the case of Brazil, however, Federal and State taxes are applied so that we have to charge a commercial Brazilian customer nearly 2½ times as much for a U.S. product as we do to sell the same product to a commercial customer in the United States. Now if the Government of Brazil buys it, they don't have to pay all these taxes and so there is only the normal importation costs and the total price is maybe only 30 or 40 percent above the U.S. price. Under these circumstances you can see that our commercial business in Brazil is severely limited.

Mr. BROTZMAN. I want to thank you very much for your testimony. It has been most helpful to us.

Mr. GIBBONS [presiding]. It certainly has, Mr. Packard. Are you planning to stay here with the rest of the panel that will testify? There may be more questions coming up.

Mr. PACKARD. Fine. I will be glad to stay.

Mr. GIBBONS. Who is next on the panel?

STATEMENT OF C. LESTER HOGAN

Mr. HOGAN. I believe the agenda calls for me to be next.

I am Lester Hogan, president of Fairchild Camera & Instrument Corp. I first want to thank the committee for the opportunity of being here and presenting our story today.

I would like to say first that we at Fairchild Camera agree with what Dave Packard has just said. We have found exactly the same kind of situations he has abroad, for example, if we build a factory in Germany, we find generally that our sales will double or quadruple in 1 year.

As another example, Fairchild just started a joint venture in Japan that was formed in October of last year. Even though nothing is yet being built by the joint venture in Japan and all our products are being exported from the United States, our sales in Japan this year will quadruple over what they were in 1972.

We are so convinced of this philosophy that internally, within Fairchild Corp., we refer to these small factories we build around the world as market penetration factories. It is just our way of telling ourselves that the whole purpose of building a factory abroad is to give ourselves presence in a foreign country so that we are accepted in the country.

We have some backup production capability abroad, but we expect that three-quarters of the business will be shipped out of the United States and thus be U.S. exports. We have the same experience as Hewlett-Packard.

We also have had a great deal of experience with these nontariff barriers, and we think that it is necessary now for the United States, as Dave Packard put it, to be tough and to be hardnosed in our negotiations from here on.

We believe there was good reason at the end of World War II to give our trading partners an "uanfair advantage" in trade. They had countries and industries to rebuild. But we don't know of any of our major trading partners that still need such an "unfair advantage" anymore.

We think it is very essential that trade between the United States and the major trading partners be on a reciprocal basis. And we don't know any way that can be negotiated except to grant broad power to the President.

It is a very difficult and complex problem to negotiate on trade matters and to sit across the table and to threaten occasionally some other fellow in a negotiation without really having the power; this is specially true when he knows you don't have the power. For that reason, we basically do support the Trade Reform Act of 1973.

However, there is a separate trade situation with respect to Fairchild Camera, and it is one that I would like to speak to—and I know Dr. Noyce wants to speak to—to make certain that the members of the committee understand the almost unique position that is occupied by the American semiconductor industry.

The semiconductor industry builds the component parts that are required in order for us to build any electronic equipment. Dave Packard happens to be one of the largest customers of my corporation. Magnavox who has been here is one of the largest customers of our corporation. And all of the computer main frame companies who build computers are customers of our corporation. We build these small semiconductor parts that are then used by equipment manufacturers to build electronic equipment.

I happened to have the pleasure back in 1970 to appear before the U.S. Tariff Commission in order to explain the position of the American semiconductor industry to them, and I said at that time that we were capable of putting 5,000 electronic components on a little chip of silicon that was hardly larger than the head of a pin.

Today we can put 20,000 electronic components on a chip of silicon that is not much larger than the head of a spin, and If I have the privilege of coming back before you in 18 months, we will raise that number to at least one-third million components on a chip of silicon not much larger than the head of a pin.

This semiconductor industry divides production into two basic processes: first, an extremely high technology process which we have always kept in the United States which includes the diffusion, the etching, the crystal growing, the actual building of these small components and putting the 5,000, the 20,000, or 300,000, as the case might be, electronic components on the small piece of silicon.

Having done that, it is necessary to attach wires to this small chip of silicon, which is the second part of the process, and you can imagine the problem when you have 300,000 electronic components on a piece of silicon the size of a head of a pin: the problem of connecting wires

so that one can communicate to this tiny mass of electronic circuitry. This is a low technology, high labor part of our industry.

After having diffused the silicon chip, we ship it offshore, using items 806.30 and 807 of the tariff laws, assemble the product offshore, put some kind of a mechanical protection around it, and then bring it back to the United States for further measurement, classification, reliability-quality evaluation, and then ship it from that place worldwide, for sale both in the United States and throughout the world.

In 1972, the semiconductor industry produced and sold $2.6 billion worth of these devices. We estimate that in 1980 the semiconductor industry will produce and sell something in excess of $9 billion worth of these little chips of silicon with varying amounts of complexity.

Our industry is a very healthy industry. It is characterized by very vigorous international competition. We have tremendous competition throughout the world from Japanese and from Western European countries, but nevertheless we are the dominant force.

We now produce and sell something in excess of 50 percent of the world's production of semiconductor devices. So we are a very healthy, dominant force in the industry.

An interesting fact of our industry, if one goes back only 3 or 4 years ago, is that 100 percent of these little electronic calculators, that I know you all have seen and used by now, were built and assembled outside the United States, using semiconductor components built and manufactured by American semiconductor firms using the techniques I have described, where we do the high technology part in the United States and assemble them overseas.

The reason that the assembly of these computers went overseas is that we had at that time what we called small-scale integration or medium-scaled integration. We could not put thousands of components 4 or 5 years ago on a single piece of silicon. It was very difficult for us 4 or 5 years ago to put 100 components on a chip of silicon. As a result, it took 100 to 300 of our semiconductor packages in order to build an electronic calculator. There was a lot of assembly time. And so the Japanese, with their lower-cost labor, were able to conquer about 70 percent of the total world market in electronic calculators.

Since the advancement of our technology in the United States to the realm of what we call large-scale integration where we put thousands of components on one chip of silicon, we can now build an entire calculator on one chip of silicon—one, three, five, depending upon the complexity of the calculator.

Dave just happens to have one of these calculators. This is a very prime example of one built by Hewlett-Packard using light-emitting diode arrays. It uses American semiconductor parts. I am sorry they are not Fairchild parts. Dave does buy some parts from us, but not for this machine.

Mr. PETTIS. Isn't that a more sophisticated computer than the one we typically see?

Mr. PACKARD. Yes. This is the most sophisticated small calculator available. We have had these out for over a year and because of the things Dr. Hogan has talked about we have no competition. They are made in the United States and at this time we have the entire market to ourselves.

Mr. GIBBONS. Is that the one that sells for about $300?

Mr. HOGAN. He just cut the price yesterday. I paid $395. About 4 years ago, 100 percent of these calculators were built outside of the United States. Today about 50 percent of all electronic calculators are built in the United States as a result of the semiconductor industry. I happen to believe the same will be true of the watch industry. I know that Dr. Noyce is going to refer to that specifically because his company which started as a semiconductor company has already started building watches in addition to the semiconductors.

But there is much less cost in the assembly of a calculator and much less in the assembly of a quartz watch after you get large-scale integration. America can compete now with the new era of large-scale integration, and we do not need protection.

It is true that this business is tough and there is tough competition, but American semiconductor business has done well.

When many segments of our economy find it difficult to compete, the U.S. semiconductor industry is leading the world. According to the Tariff Commission figures, our industry's positive balance of trade has risen steadily from $150 million in 1969 to $200 million. This is the net positive balance of trade in 1972.

I am speaking now only for the semiconductor industry, not for what the industry has done for the equipment businesses.

The Tariff Commission estimates that the positive trade balance will be $235 million this year. My personal opinion is that the positive trade balance of our industry will exceed $250 million this year. We will have much firmer figures on that in a month or two.

The positive balance in semiconductors for Fairchild Camera was over 15 million in 1972, and we estimate it will be triple that, $45 million, for 1973, in 1 year.

This positive balance of trade was accompanied by a growth in domestic employment which is only temporarily depressed by the 1970–71 slowdown. Taking the semiconductor or industry as a whole, domestic employment rose from 80,000 in 1967 to 100,000 in 1969, dipped to 75,000 in 1971, but it rose to 111,000 last year.

Our personal estimate at Fairchild is that domestic employment for the semiconductor industry in the United States this year will reach an all-time peak of 115,000 employees building these chips to make it possible for Dave Packard and others to build calculators and computers and what-have-we.

This growth in domestic employment has expanded along with rising foreign employment in the assemly operations abroad. I think this extraordinary record of industry health which has contributed so much to domestic employment and a positive balance of trade is attributable to the semiconductor industry's internationally integrated manufacturing, as I have described it.

By maintaining this process, we can sell semiconductors in the United States that contain domestically manufactured parts. We can compete abroad on any terms, and we are eager to break into the new markets with great sales potential such as now appear possible in Eastern Europe.

Frankly, our industry, the American semiconductor industry, has no problem from competition wherever we are given a fair chance to compete.

One of the freest, fairest markets in the world happens to be Hong

Kong, where there are no duties, no tariffs, no nontariff barriers. Anybody can ship into Hong Kong and sell.

As many of you know, there is a large electronics industry in Hong Kong. All of these shirt-pocket radios that you buy are almost all entirely built in Hong Kong.

You might not have known that Fairchild Camera and Instrument Corp. ships 50 percent of all of the semiconductors to Hong Kong that are used in Hong Kong for the assembly of that electronic equipment, simply because no one in the world can compete with us. We find in that marketplace we have no market competition.

I know there are some arguments that if we were to repeal items 806.30 and 807, the semiconductor industry would be forced to bring foreign assembly jobs back to the United States.

Whatever the case might be in other industries, it is simply untrue in the semiconductor industry. The overwhelming majority of semiconductors can only be sold if they are very cheap. It is the inexpensiveness of these little chips of silicone that is a prerequisite for their use in every end item I know of.

Therefore most semiconductors cannot be marketed anywhere if they are assembled in the United States.

Items that we now sell for 2 cents apiece or 10 cents apiece, and we do sell some of these high technology products for 2 cents to 10 cents apiece, would have to be sold for factors of five times that price if we had to assemble them in the United States. And there are simply no customers available anyplace in the world, if we raised our prices by a factor of five.

The undeniable fact is that semiconductors are one of those products that cannot be totally produced in the United States and sold competitively anyplace in the world, including the United States. In fact, the assembly of semiconductors by the U.S. industry has always made use of foreign labor, beginning in the early 1960's. As soon as the various companies in the industry realized the amount of manual labor involved in the assembly of semiconductors and the benefits for all that could be attained from keeping unit costs low, assembly operations were established abroad.

Thus our industry has not exported jobs. It has expanded U.S. employment through careful use of foreign assembly as a complement to U.S. production.

Another response to the elmination of these tariff items, automation of the assembly process in the United States, is also unfortunately uneconomical, and it is unfeasible in most cases.

Generally each semiconductor or line of semiconductors requires custom made automated assembly equipment. When the market for a particular semiconductor product is relatively stable, the investment in the complex and expensive machinery for automated assembly makes sense. In these cases where it is economically possible we do automate and we do bring the assembly jobs back to the United States.

However, in the case of most semiconductor products, innovation is so rapid that by the time custom made assembly machines are ready for production, the particular semiconductor is nearly obsolete.

To give you a feel for the rate of change in our industry, 30 percent of the dollar volume of product sold by Fairchild in 1972 did

not exist in 1970. They were not even in our production line. They were not even in pilot lines.

Even if the product is still selling after 3 years, 4 years, it is rare that one semiconductor is sold long enough to return the enormous cost of buying automated assembly equipment.

Finally, because of intense competition many semiconductors must be designed and produced before there is any certainty that a sizable market exists for them. No company can repeatedly risk capital on automated assembly operations under these circumstances, nor can a company afford the time lag between innovation and production that automation entails in areas of rapid product development.

Hand assembly provides the flexibility of rapid production and low capital investment required to keep pace with competition in this very innovative industry.

Denial of tariff items 806.30 and 807 would make it impossible for semiconductor manufacturers to continue their present internationally integrated production and hence remain competitive in the world market.

If we lost those savings, estimated costs would increase significantly, and since semiconductors are almost always sold in bulk amounts with profits of a fraction of a penny per device, costs would force up our prices. Then competitors from Japan and Western Europe would be able to undersell us.

The denial of items 806.30 and 807. and the consequent undermining of the competitive position of the U.S. semiconductor industry will not serve the purposes of those who seek the elimination of those items—an increase in employment in the United States. In fact, it will accomplish the opopsite effect. U.S. semiconductor manufacturers who want to remain competitive will be forced to take the only alternative available to them—shifting more operations abroad. Thus, the unalterable economics of semiconductor production dictates that elimination of tariff items 806.30 and 807 will substantially reduce employment in the United States.

Fairchild Camera and Instrument Corp. is very sympathetic to labor's concern over unfair competition from abroad which causes unemployment. Further, we believe that present rates of unemployment are entirely unacceptable. We have always conducted our company's operations with these facts in mind. As part of this policy we have expanded operations in areas of chronic unemployment such as New England and have built a new plant on an Indian reservation where jobs are often impossible to find.

Last year in 1972 we increased the population of our plant in Portland, Maine, by 30 percent, and in 1973 we will increase that operation by a comparably impressive number bringing more jobs to this depressed area.

At the present time Fairchild Camera and Instrument is the largest private employer of American Indians in the United States.

But we feel it makes no sense to undermine the competitive success of our industry and its positive contribution to our balance of trade by disrupting our present internationally integrated manufacuring, especially when such disruption would result in a serious reduction of jobs in the United States.

Thank you.

[Mr. Hogan's prepared statement, and material subsequently received on the industry's contribution to a favorable balance of trade, follow:]

STATEMENT OF DR. C. LESTER HOGAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, FAIRCHILD CAMERA AND INSTRUMENT CORP.

Mr. Chairman and members of the Ways and Means Committee, I want to thank you for this opportunity to appear before you today. First, I want to say that Fairchild Camera and Instrument Corporation joins with Mr. Packard in his support of the Trade Reform Act of 1973. Second, our company, because of its wide experience in internationally integrated assembly operations, would like to present our strong belief that the trade legislation that Congress passes this year should not deny the use of Tariff Items 806.30 and 807.00 to American semiconductor manufacturers. As you know, these Tariff Items allow American manufacturers to produce parts domestically, to ship them abroad for assembly or processing, and to reimport the finished product without paying duty upon the value of the American-made parts.

The semiconductor industry is characterized by vigorous international competition. Constantly improved products and production methods have driven the prices of typical semiconductor devices down to one-tenth of their prices a decade ago, while rapid and constant innovation has led to increased uses for semiconductors in ever larger markets. In 1972 $2.6 billion worth of semiconductors were purchased in the free world.

Semiconductors have become the essential building blocks for the products of other major U.S. industries, such as computers, aircraft, missiles, calculators, and a wide range of consumer electronic products. Recent technological advances by U.S. semiconductor manufacturers are likely to bring the manufacture of watches and calculators back to the U.S. The continued health of the U.S. semiconductor industry and its ability rapidly to provide more advanced and cheaper semiconductors are thus crucial, not only to the semiconductor industry itself, but also to other vital sectors of the American economy.

In this business of tough competition, American semiconductor manufacturers have done well. At a time when many segments of our economy find it difficult to compete with foreign manufacturers, the U.S. semiconductor industry is leading the world. According to Tariff Commission figures, our industry's positive balance of trade rose steadily from $150 million in 1969 to about $200 million in 1972, and is projected to rise to about $235 million this year. Fairchild's own positive balance of trade in semiconductors was over $15 million in 1972 and is roughly estimated at over $45 million for this year.

This positive balance of trade was accompanied by growth in domestic employment only temporarily depressed by the 1970–1971 economic slowdown. Domestic industry employment rose from around 80,000 in 1967 to 100,000 in 1969, dipped to 75,000 in 1971, and then rose to 111,000 in 1972. Employment should rise again in 1973. This growth in domestic employment has expanded along with rising foreign employment in assembly operations abroad.

This extraordinary record of industry health which has contributed so much to domestic employment and a positive balance of trade is attributable to the semiconductor industry's internationally integrated manufacturing. Very briefly stated, semiconductors are tiny electronic parts which replace vacuum tubes and entire sections of older electronic products. They are made in two distinct steps. First, these miniature components are designed and, through the use of delicate and precise processes, etched onto tiny pieces of silicon or "chips." By keeping this high technology design and production stage in the U.S., close contact is maintained with semiconductor users such as computer manufacturers.

Second, these chips are shipped abroad for assembly, where leads are attached and protective covers put on the chips. This assembly process is labor intensive and uses semi-skilled workers. Foreign assembly is the only way that U.S. manufacturers can possibly stay competitive, at home and abroad, with foreign manufacturers of semiconductors who have an abundant supply of inexpensive labor and whose production and design techniques are now approaching, or equal to, ours.

By maintaining this internationally integrated manufacturing process we can sell semiconductors in the U.S. that contain domestically-manufactured parts; abroad we can compete in every market that we can enter on even terms, and we

are eager to break into new markets with great sales potential, such as Eastern Europe.

Tariff Items 806.30 and 807.00 are essential to our integrated manufacturing process. If these Items were denied to us, our costs and prices would be forced up, and we would lose our competitive position.

Some argue that denial of Items 807.00 and 806.30 to the semiconductor industry would bring foreign assembly jobs "back" to the United States. Whatever the case in other industries, that is simply untrue in the semiconductor industry. The overwhelming majority of semiconductors can only be sold very cheaply, for their inexpensiveness is a prerequisite for their use in most items. Therefore, most semiconductors cannot be marketed anywhere if assembld with domestic labor at U.S. wage rates. Increased labor costs for our company alone would be an estimated $30 million per year. Items selling for 2 cents to 10 cents apiece would cost 10 cents to 50 cents if made here—and there are simply no buyers at that price. The undeniable fact is that semiconductors are one of those products that cannot be totally produced in the U.S. and sold competitively.

In fact, assembly of semiconductors by the U.S. industry has always made substantial use of foreign labor. Beginning in the early 1960's, as soon as the various companies in the industry realized the amount of manual labor involved in assembly of semiconductors and the benefits for all that could be obtained from keeping unit costs low, assembly operations were established abroad. Thus our industry has not exported jobs; it has expanded U.S. employment through careful use of foreign assembly as a complement to U.S. production.

Another response to the elimination of these Tariff Items—automation of the assembly process in the U.S.—is also unfortunately economically unfeasible in many cases. Generally, each semiconductor or line of semiconductors requires custom-made automated assembly equipment. When the market for a particular semiconductor product is relatively stable, the investment in the complex and expensive machinery for automated assembly makes sense. In these cases where it is economically possible, we do automate to bring foreign assembly and production back to the U.S.

However, in the case of most semiconductor products, innovation is so rapid that by the time the custom-made assembly machines are ready for production, the particular semiconductor is nearly obsolete. And even if the product is still selling, it is rare that one semiconductor is sold long enough to return the enormous cost of buying automated assembly equipment. Finally, because of intense competition, many semiconductors must be designed and produced before there is any certainty that a sizeable market exists for them. No company can repeatedly risk capital on automated assembly operations under these circumstances, nor can a company afford the time lag between innovation and production that automation entails in areas of rapid product development. Hand assembly provides the flexibility of rapid production and low capital investment required to keep pace with competition in this innovative industry.

Finally, denial of Tariff Items 806.30 and 807.00 would make it impossible for semiconductor manufacturers to continue their present internationally integrated production and remain competitive in the world market. If we lost those savings, estimated costs would increase significantly. And since semiconductors are almost always sold in bulk amounts with profit of a fraction of a penny, price would be forced up and our competitors would be able to undersell us.

The denial of Items 806.30 and 807.00 and the consequent undermining of the competitive position of the U.S. semiconductor industry will not serve the purposes of those who seek the elimination of those items—an increase in employment in the U.S. In fact, it will accomplish the opposite effect. U.S. semiconductor manufacturers who want to remain competitive will be forced to take the only alternative available to them—shifting more operations abroad. Thus, the unalterable economics of semiconductor production dictates that elimination of Tariff Items 806.30 and 807.00 will substantially reduce employment in the U.S.

Fairchild Camera and Instrument Corporation is very sympathetic to labor's concern over unfair competition from abroad which causes unemployment. Further, we believe that present rates of unemployment are entirely unacceptable. We have always conducted our company's operations with these facts in mind. As part of this policy we have expanded operations in areas of chronic unemloyment such as New England and have built a new plant on an Indian reservation where jobs are often impossible to find.

But we feel it makes no sense to undermine the competitive success of our industry and its positive contribution to our balance of trade by distrupting our present internationally integrated manufacturing, especially when such disruption would result in a serious reduction of jobs in the U.S.

DATA

I. BALANCE OF TRADE

1. Semiconductor Industry (approximate) (Source: Tariff Commission)

[In millions of dollars]

1969	+150
1970	+175
1971	+175
1972	+200
1973 (projected)	+235

2. Fairchild Semiconductor. A division of Fairchild Camera & Instrument Corp. (rough estimates)[1]

[In millions of dollars]

1970	+16
1971	+10
1972	+15
1973 (projected)	+34

[1] These figures include sales of semiconductor test systems by the Systems Technology International Division.

II.—EMPLOYMENT

1. Semiconductor Industry, domestic employment (Source: Department of Labor)

1967	83,000
1968	89,000
1969	100,000
1970	90,000
1971	75,000
1972	111,000
1973 (projected)	115,000

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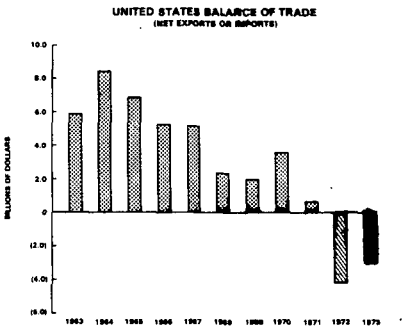
INTRODUCTION

Dr. C. Lester Hogan, president and chief executive officer of Fairchild Camera and Instrument Corporation, testified before the House Ways and Means Committee on May 30, 1973, concerning Items 806.30 and 807.00 TSUS and the proposed Trade Reform Act of 1973.

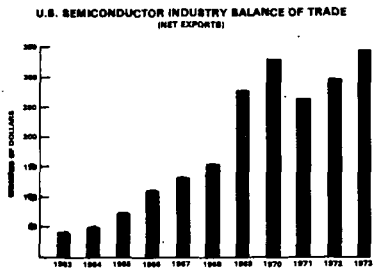
The following charts and accompanying information are being submitted as an addendum to Dr. Hogan's testimony. This data is designed to provide additional and updated information on semiconductor industry contributions in such pertinent areas as the U.S. balance of trade, worldwide manufacturing, domestic employment and payrolls, unit volume and prices of semiconductor products, as well as projections of worldwide semiconductor consumption and production.

Overall, this information is intended to illustrate the importance to the United States of retaining Items 806.30 and 807.00 TSUS.

These charts demonstrate that the United States semiconductor industry's balance of trade has been one of consistent improvement throughout the past decade.



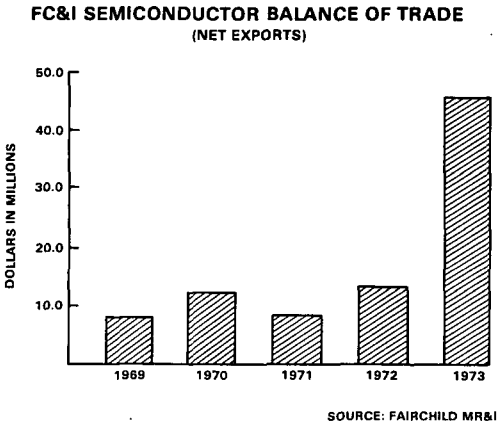
SOURCE: U.S. DEPARTMENT OF COMMERCE (SURVEY OF CURRENT BUSINESS)



SOURCE: U.S. DEPARTMENT OF COMMERCE (FT410;FT135;FT246)

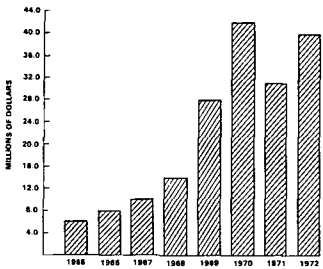
Note that in 1973 -- contrary to the trends shown by overall U. S. balance of trade statistics -- the semiconductor industry's positive impact on U. S. balance of trade will approach $350 million. Equally impressive is the fact that U. S. exports are over half of the world's foreign trade in semiconductors. Repeal of 806. 30 and 807. 00 provisions would drastically lower our positive export posture.

Fairchild Camera & Instrument Corporation's semiconductor trade balance is expected to account for 13 percent of our industry's balance of trade, as the following chart illustrates.



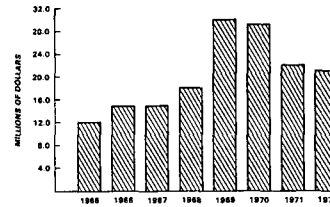
Offshore assembly and manufacturing locations, with existing tariff and trade policies, have allowed United States semiconductor manufacturers to compete effectively in all of their primary international markets. The result of this is found on the following charts, which show significant positive balance of trade with West Germany, France, United Kingdom and Japan.

U.S. SEMICONDUCTOR INDUSTRY
BALANCE OF TRADE WITH WEST GERMANY
(NET EXPORTS)



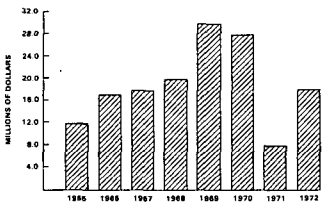
SOURCE: U.S. DEPARTMENT OF COMMERCE (FT135/410)

U.S. SEMICONDUCTOR INDUSTRY
BALANCE OF TRADE WITH FRANCE
(NET EXPORTS)



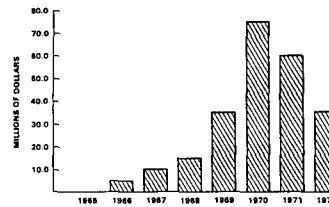
SOURCE: U.S. DEPARTMENT OF COMMERCE (FT135/410)

U.S. SEMICONDUCTOR INDUSTRY
BALANCE OF TRADE WITH UNITED KINGDOM
(NET EXPORTS)



SOURCE: U.S. DEPARTMENT OF COMMERCE (FT135/410)

U.S. SEMICONDUCTOR INDUSTRY
BALANCE OF TRADE WITH JAPAN
(NET EXPORTS)

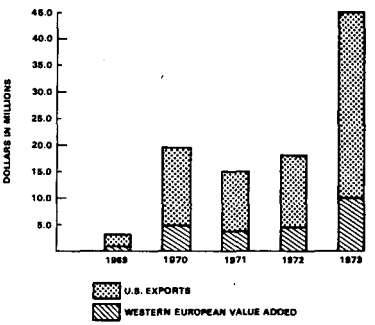


SOURCE: U.S. DEPARTMENT OF COMMERCE (FT135/410)

Although the balance of trade with Japan is highly positive, non-tariff trade barriers, primarily capital investment restrictions, have prevented the U.S. from establishing a strong internal manufacturing position.

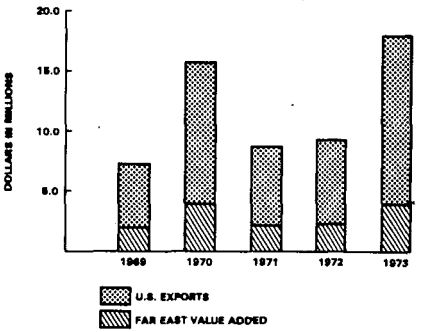
Fairchild's sales, including those of its foreign marketing subsidiaries and Japanese joint venture, have demonstrated the same growth patterns as the industry in both Western Europe and the Far East, as shown in the following charts.

FC&I SEMICONDUCTOR SALES IN WESTERN EUROPE



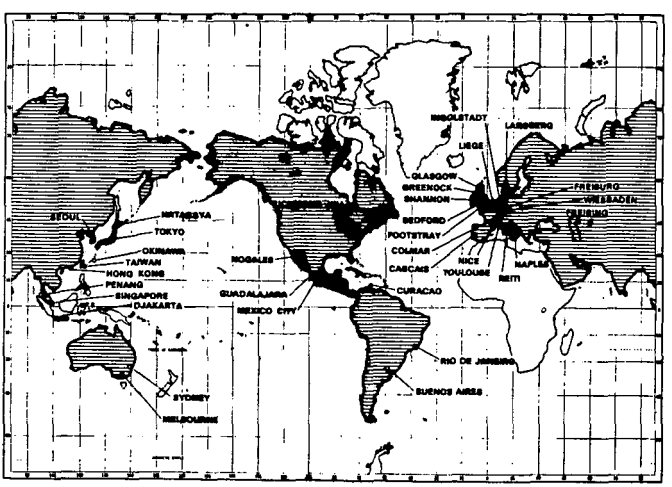
SOURCE: FAIRCHILD MR&I

FC&I SEMICONDUCTOR SALES IN FAR EAST
(INCLUDING JAPAN)



SOURCE: FAIRCHILD MR&I

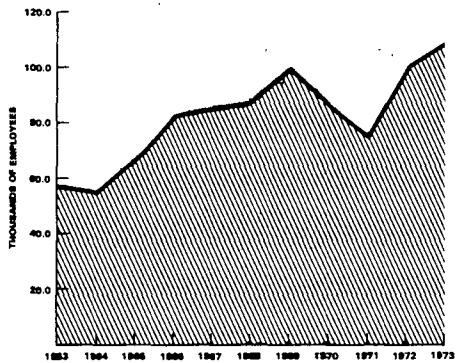
This map shows worldwide locations of major U.S. semiconductor firms today.



SOURCE: FAIRCHILD MR&I

Because of this international capability, the U.S. semiconductor industry has been able to compete and, in fact, dominate world semiconductor markets. Reason for this is that these facilities allow American companies to compete in the most cost effective manner with foreign companies.

More importantly, because this international capability has given U.S. semiconductor manufacturers industry leadership, significant increases in both domestic employment and payrolls have been realized. Both of these factors are illustrated on following charts.



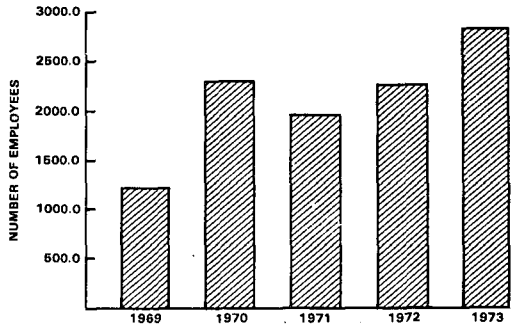
SOURCE: U.S. DEPARTMENT OF LABOR
(ANNUAL EDITION ON EMPLOYMENT STATISTICS)

This employment growth directly corresponds to the establishment of offshore facilities. In fact, offshore capability actually placed the U.S. semiconductor industry in its present competitive position, and therefore has favorably influenced domestic employment growth which has doubled in the last decade.

The employment decline noted in 1970-71 was caused by the recession. However, the U.S. semiconductor industry is now at peak employment levels -- expected to approach 115,000 domestic employes this year.

Fairchild's domestic employment also has increased in support of our foreign operations, as the following chart demonstrates.

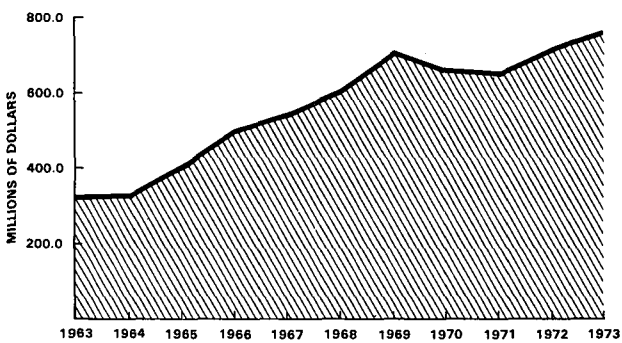
FC&I SEMICONDUCTOR FOREIGN SALES IMPACT ON DOMESTIC EMPLOYMENT
(NUMBER OF EMPLOYEES SUPPORTING FOREIGN SALES AT YEAR END)



SOURCE: FAIRCHILD MR&I

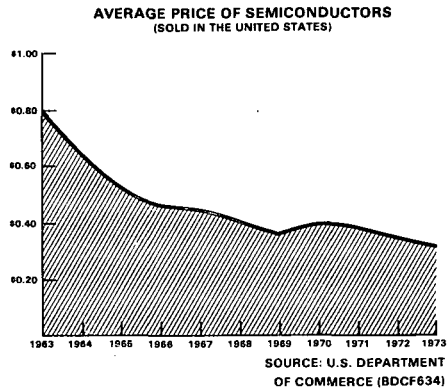
United States payrolls in the semiconductor industry demonstrate consistent growth patterns. Following a slight downturn during the recession, industry payrolls have now surpassed the peak levels of 1969, moving well past the annual $700 million mark, again doubling during the last decade.

SEMICONDUCTOR INDUSTRY PAYROLL
(PAID TO U.S. EMPLOYEES)

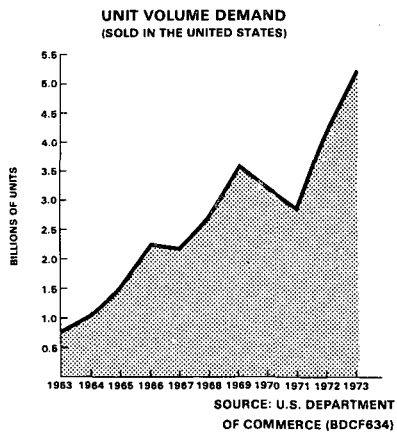


SOURCE: U.S. DEPARTMENT OF LABOR
(ANNUAL EDITION OF EMPLOYMENT STATISTICS)

The average selling prices for semiconductor products have been significantly reduced as a result of offshore manufacturing, as well as tariff and trade policies currently in place. This non-inflationary phenomenon is contrary to most industries. However, it has allowed the semiconductor industry to help improve the quality of other U.S. manufacturers' products, which utilize semiconductor devices, while at the same time making them price competitive in the U.S. and international markets. Repeal of 806.30 and 807.00 provisions would diminish the competitiveness of these customers' products in international markets.

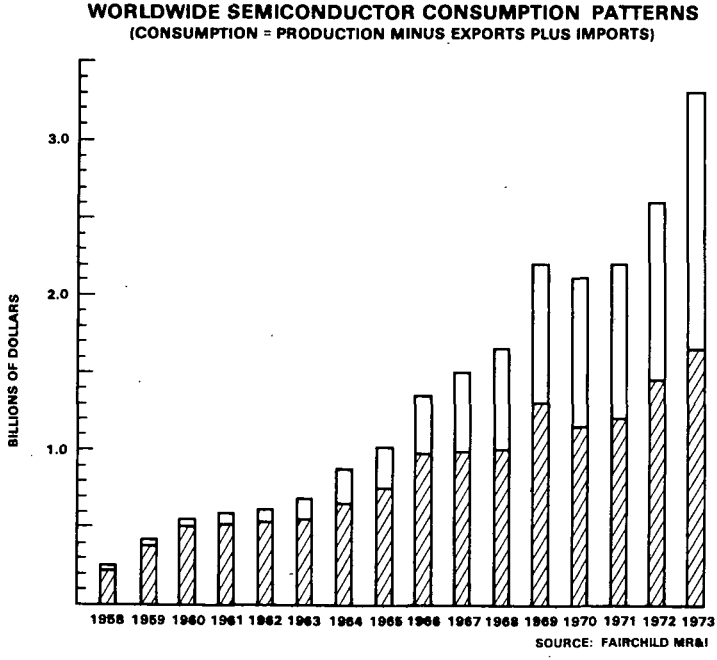


Semiconductor industry price declines as the result of cost effective manufacturing have resulted in consistently increasing unit demand, as demonstrated by the following chart.



The competitiveness of the U.S. semiconductor industry depends upon continuing low prices for its products. These low prices, in turn, depend upon the continued functioning of the present internationally integrated manufacturing operation of the U.S. industry. This is made possible by Items 806.30 and 807.00 TSUS. Not only does the internationally integrated manufacture of semiconductors permit the U.S. to remain price competitive, but it also permits the U.S. industry to stay technologically competitive. The relatively low capital costs required for assembly operations abroad, together with the short lead times needed to establish manual assembly operations for new products, combine to give U.S. manufacturers the production flexibility required to introduce technologically innovative products that are necessary in order to maintain international competitiveness.

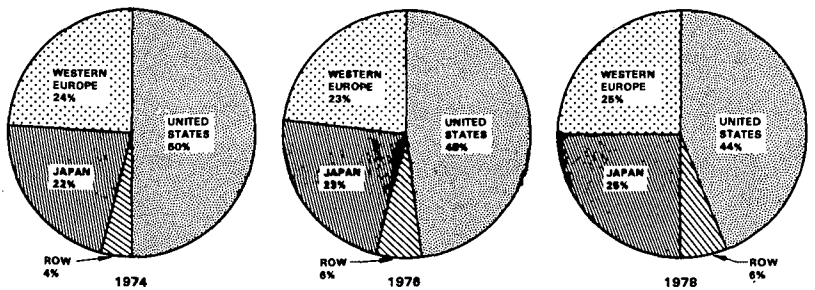
It is apparent that if the United States is to share in industry growth during future years, we must maintain an equitable competitive position for the growing international business volume typified by the following graph.



Here are worldwide consumption patterns for the semiconductor industry since the late 1950s. The shaded portions of the bars illustrate U.S. consumption while the other represents sales in other sectors of the world. This trend toward international markets is demonstrated even more dramatically in the following chart.

Looking to 1976 -- and on to 1978 -- the United States market continues to grow in dollar volume, but decreasing in percentage of the overall market -- from 50 percent in 1974 to 44 percent by 1978 as the chart below demonstrates.

WORLDWIDE SEMICONDUCTOR DOLLAR CONSUMPTION GEOGRAPHIC PATTERNS



SOURCE: FAIRCHILD MR&I

However, note that the overall 1978 market is expected to be $5.1 billion, with Japan and Europe's combined potential exceeding that of the U. S. This is another strong sign that the U. S. should retain and safeguard its competitive position throughout the world.

In order to remain competitive in the world market, the U. S. semiconductor industry must continue its present internationally integrated production processes. The foreign operations which are part of this are absolutely essential for the continued health of the U. S. semiconductor industry, with its positive U. S. balance of trade and its growing domestic employment.

SUMMARY

The U.S. semiconductor industry -- permitted to operate on an equitable basis in free world competition -- has, can and will succeed, while also making positive contributions to the domestic economy.

The semiconductor marketplace has evolved from one of dependence on domestic operations to international scope. The health of the U.S. semiconductor industry therefore depends on how well American companies build their business base around the world.

If the preeminence of American semiconductor manufacturers is to continue . . .

1) the 806.30 and 807.00 tariff exemptions must not be repealed;

2) current U.S. taxation of foreign earnings which restricts the competitiveness of U.S. corporations operating abroad should not be enacted;

3) trade in all sectors of the world, including the Eastern bloc, should be encouraged where national security is not in any way compromised;

4) Japan, and France as well, must liberalize or be urged through negotiations to ease their capital investment and trade policies.

Semiconductor industry projections throughout the world are far too large and important for the United States to ignore -- and our nation's industry position is much too significant to be jeopardized.

Mr. PETTIS. Mr. Chairman, I wonder if I might ask this question. I thought I understood you to say that you were having considerable success in these areas like New England, Indian reservations, and getting these people to do at least part of this work you do with the semiconductors. Then can I conclude from this that retraining people who might have been making shoes when the shoe business is falling out from under us, or textiles, could be retrained without a great expense to do the kind of work you are talking about?

Mr. HOGAN. We have found no problem at all in training people who used to make shoes in New England to make semiconductors. That is not the problem. There has been some problem on the Navaho Reservation because one is starting with people who have had less contact with education and work with production processes. So we have had to make a greater effort and it has been hard, but not so hard that we find it discouraging. We have had some financial help from the U.S. Government to train these people to make them productive.

Mr. PETTIS. But both you and Mr. Packard have talked about an expansion in this general area of WEMA's activities. So you could extrapolate by saying by 1980 there will be a lot of jobs in this rather unique field that do not exist today?

Mr. HOGAN. We believe a lot of jobs in the United States.

Mr. PETTIS. And they don't all require Ph. D.'s from Stanford; right?

Mr. HOGAN. It helps to have a few.

Mr. PACKARD. Let me just emphasize what Dr. Hogan has said about the importance of tariff items 806.30 and 807. Although some people in the United States can do some of these things, the Navahos and so forth, not very many want to and so it is impossible to be competitive without going to some of the low-cost labor areas abroad. Our foreign competitors do this and we must follow suit if we are to be competitive.

Some of the operations in the calculator I showed you we do ourselves. For example, those little red lights consist of a number of tiny segments each one of which has to be connected with a gold wire about a tenth of the diameter of your hair. Those connections are made under a microscope in Singapore. This operation is a small but very important part of the total.

If it were not for the low-cost interconnections of that particular element, we could not sell the calculator at a competitive price.

You can't assume that under more restrictive U.S. tax laws that all of these operations would be done in the United States. We need to have some balance in order to meet the foreign competition. If we can do that, I am convinced the ingenuity of American business will find a way to stay ahead, but first you have to give us this flexibility.

Mr. GIBBONS. Your argument is that you can't afford to automate this because it changes so fast?

Mr. HOGAN. Yes; 30 percent of our 1972 dollar volume sales consist of item that did not exist in 1970.

Mr. PETTIS. I would like to have your reaction, in the light of your previous Government experience, about the provisions in this proposed legislation dealing with most-favored-nation treatment, particularly of Russia.

Mr. PACKARD. Yes. I think that the extension of MFN treatment is something that we should move toward as rapidly as possible. My written statement contains some comments about that.

As far as export controls are concerned, it seems to me we have been overly restrictive in regard to commercial products. Obviously, national security has to come first and there are certain high technology items we cannot afford to export for that reason. But, for example, most of the products we make are sold commercially throughout the Western World. Anybody can buy them. I know that even the most advanced products which are on the prohibited list get into the hands of the Soviet Union. Our people have seen some of them over there.

So it is just counterproductive to have these overly protective requirements.

I think that the entire export control system should be reexamined recognizing that there are a few very special areas and specific defense products that need to be taken care of. I think that a more realistic approach will promote better overall communication and knowledge and thus will enhance rather than adversely affect our national security.

Mr. PETTIS. Do you feel from your background that the Russians are ethical in the matter of respecting such things as patents and so on, if we can have this quid pro quo? Would they give us any problem in that area?

Mr. PACKARD. I have only one example I can give you. About 6 years ago we developed a desk-top calculator, a predecessor of the little ones. It had to be much bigger because of the technology in those days. The Soviets bought several of these and wanted us to help them set up a factory. We declined and they proceeded to make an exact copy which we saw this year.

I think that might answer your question.

Mr. GIBBONS. Let's go to the next witness then, without objection.

STATEMENT OF ROBERT N. NOYCE

Mr. NOYCE. Mr. Chairman and members of the committee, I am Robert Noyce, president of Intel Corp., a California manufacturer of integrated circuits. I am appearing today on behalf of a group of relatively small, young, but rapidly growing, semiconductor manufacturers and the industries which supply the semiconducter industry. There are approximately 9 semiconductor companies with annual sales in 1972 of $211,203,698 and which employ in excess of 11,123 people. There are approximately 29 suppliers in 6 States.

The semiconductor industry is a special part of the electronics industry which has been, or will be, represented before you by the Electronic Industries Association and the Western Electronic Manufacturers Association. I would particularly call their testimony to your attention and state that those semiconductor manufacturers and the suppliers whom I represent fully endorse and support the positions of both the EIA and WEMA with respect to items 806.30 and 807.

Let me state that we are totally in support of the position supported by WEMA in the trade matters and the statement that will be made

by the Electronic Industries Association with regard to items 806.30 and 807.

Since Dr. Hogan has outlined the industry, the semi-conductor industry, to you well, let me be very brief and just point out some of our experiences and join him in his statement about the operation of the industry.

In terms of technical change, the average age of the nine semiconductor companies is 6 years. They are all producing products of more recent vintage than that, which shows the rapidity of the change. My company is typical. We are less than 5 years old. We ship essentially all of these parts overseas for assembly. My company opened up its first overseas subsidiary in Panang in December.

At that time our total employment was 900. At this time our total employment is 1,600, only 300 of which is in Panang. So in the last 5 months our U.S. employment has increased by 33 percent.

We also buy the other parts of our subassembly packages from the United States.

If 806.30 or 807 were repealed, it would be better to buy them from overseas sources. We use assembly facilities in Taiwan, Manila, Hong Kong, in Singapore, and in Panang, Malaysia.

Last year over 35 percent of our product finally wound up in the hands of overseas customers. The overseas market is growing more rapidly for us than is the domestic market. So far this year 43 percent of our total production has been for export. That means of those 1,300 jobs in the United States, some 600 of them are really providing for the export market.

In this small company our positive contribution to the balance of trade last year, including all foreign labor, purchased parts from overseas was $6,867,000. We think that we are making a contribution to the U.S. balance-of-payments problem.

There was some discussion this afternoon about wristwatches. I am wearing one that we are making in California. I notice Dr. Hogan is wearing a competitive type which we supply parts for. We supply parts for this and manufacture the entire watch. It is made totally of U.S. components. It does include some overseas labor, but it is a U.S. product. It has been purchased by the President as gifts for foreign visitors as an American product.

We are not interested in protecting our industry. We are interested in free trade and free access to the world markets for items like this or items like the semiconductor products themselves.

In terms of some of the questions that had been asked earlier, I would like to mention a couple of things.

We do not yet make any product simple enough that the Japanese will let it into Japan freely. The only way we can get products into Japan on distributors' shelves is to find a customer who is willing to place an order, get it in through the customs officials, and then get the customer to cancel the order so that we can then take the product and put it into the distributors.

That seems a little devious, but since that is the only way to do it, that is the way we do it. That is the only way we can get the product to our distributors.

There are many examples of this in Japan.

Again I would support the strength of negotiation of the Presidential office in trying to knock down some of these nontariff barriers.

In response to questions about the technological lag, I have been visiting Japan, as an example, regularly for the last 12 years. In my first visit I felt the technological lag in Japan was 2 years. I feel that today the technological lag is 2 years in the semiconductor market. There has been no change, and I don't expect to see any change in the near future.

Finally, as a small company, let me say that we are using DISC. It is very important to us. Substantially greater than half of our accounts receivable are overseas supporting the idea that it is much more expensive in terms of capital requirements to do business overseas.

DISC has helped us in preserving our capital and it is necessary for us to have some help in these areas in order to have adequate capital for the expansion of our overseas business.

In summary, let me emphasize that the semiconductor industry is still small and growing rapidly. We employ increasing numbers of people in the United States. Our balance of trade has definitely been positive and is sizable and growing.

If we are to continue to grow, we need to ask Congress to allow freedom to compete in these markets. We don't need protection. We are willing to stand on our own two feet, and if we are allowed to do so, we will create more new jobs in this country.

Thank you for allowing me to appear before you today.

I would ask that our position paper be included in the record.

Mr. GIBBONS. Without objection, it will be included in the record.

[The prepared statement of Mr. Noyce and the position paper referred to follow:]

STATEMENT OF ROBERT N. NOYCE, CERTAIN SEMICONDUCTOR MANUFACTURERS

Mr. Chairman and members of the Committee, I am Robert N. Noyce, president of Intel Corporation, a California manufacturer of integrated circuits. I am appearing today on behalf of a group of relatively small but rapidly growing, semiconductor manufacturers and the industries which supply the semiconductor industry. There are approximately nine semiconductor companies with annual sales in 1972 of $211,203,698 and which employ in excess of 11,123 people. There are approximately 29 suppliers in six states.

The semiconductor industry is a special part of the electronics industry which has been (or will be) represented before you by the Electronic Industries Association and the Western Electronic Manufacturers Association. I would particularly call their testimony to your attention and state that those semiconductor manufacturers and the suppliers whom I represent fully endorse and support the positions of both the EIA and WEMA with respect to Items 806.30 and 807.

My purpose in testifying before you this morning is to emphasize the importance to the semiconductor industry of the preservation of Items 806.30 and 807 of the T.S.U.S. Our industry is dependent upon these two tariff items for its continued success and well being. Without them we would suffer a serious deterioration of our position in world markets with respect to foreign semiconductor manufacturers.

Let me describe some of the characteristics of our industry and explain why 806.30 and 807 are so important to use.

The U.S. semiconductor industry dominates world markets. Over 50% of the semiconductor devices sold throughout the world are the product of U.S. companies.

The semiconductor industry is very young and growing extremely rapidly. The basic semiconductor device, the transistor, was not invented until 1948. Since that time the industry has grown to a $2.6 Billion annual sales volume in 1972 and is expected to reach a 1973 sales volume of $3 Billion. Most of the growth has occurred in the past five years and has been materially aided by the industry's use of Items 806.30 and 807. The anticipated semiconductor consumption 1973–1980 is expected to be in excess of $40 Billion with at least 40% being of U.S. manufacture.

Because of the newness of the technology and the rapid growth rate the product has an extremely high obsolescence rate. The typical product life may only be five years.

Rapid obsolescence is created by and creates a high degree of competition with respect to product innovation and consequent technology advances.

My company represents a typical situation with respect to the use of Items 806.30 and 807. We do all of our R & D and engineering work at our U.S. facilities. We manufacture the basic element of our product (the silicon wafer which contains several hundred integrated circuits) in the U.S. Our total employment at this time is in excess of 1,500 people. We purchase the other parts of our product from U.S. manufacturers, and send these parts (including the wafers) to assembly plants in Mexico, Hong Kong, the Philippines and Malaysia where the various U.S. parts are assembled into a finished product. The product is then returned to the U.S. under Tariff Item 806.30 or 807 at which time duty is paid on the value added. Back in the U.S. the product is put through final quality assurance testing and shipped to our customers throughout the world. During 1972, 35% of our product was shipped to customers outside the U.S. and in 1973 that percentage will be greater.

Without 806.30 and 807 it would be reasonable to expect one or more of the following to happen in the semiconductor industry:

1. The assembly work done off-shore would continue to be done overseas in which case few if any jobs would return to the United States and the added duties would increase product cost significantly which means we would be less competitive in world markets. This would have two effects, one would be that foreign producers would become more competitive so that the U.S. would import more and export fewer semiconductor devices with the consequent deteriorative effect on balance of trade and decreased employment by the industry. For example, my company's largest foreign competitor is a Canadian company which also has an assembly plant in Malaysia. Products returned to Canada from Malaysia carries no duty. Already the Canadian manufacturer has an important cost advantage in world markets.

2. Products destined for foreign market would *not* be returned to U.S. for final testing but would be tested overseas and shipped direct to the overseas customers from the assembly plant. If some testing is done overseas, it might be more economical to do all testing overseas resulting in the exporting of additional jobs.

3. Parts for assembly abroad would be purchased from foreign suppliers instead of U.S. suppliers at lower cost to reduce the value of materials on which duty is paid.

4. The entire manufacturing operation (including the manufacture of the silicon wafers) would be put overseas to supply foreign customers.

5. Eventually all semiconductor manufacturing facilities would be located overseas, and U.S. users would be forced to purchase all of their semiconductor devices abroad.

The one thing that would not be economically possible would be to continue to operate as the industry presently operates. Whatever adaptations the industry made would result in a deterioration of the balance of trade and the loss of U.S. jobs. Because the semiconductor device is basic to the electronics industry (e.g. computers, calculators, process controls) the repercussions could have a serious effect on the whole economy if the U.S. electronics industry was unable to maintain its worldwide competitive position. Other U.S. industries dependent on electronics would also be adversely affected.

Let me show you an example of what our industry is able to do. This is a wrist watch, but it is no ordinary watch. It is made by a subsidiary of my company at a plant in Cupertino, California. This watch does not have hands, you read the time directly by a digital liquid crystal display. The time will remain accurate to within five seconds per month because time intervals are established from the natural vibrations of a piece of quartz crystal. There are no moving parts and the watch operates for one year on the power from one tiny battery. It is an electronic watch using U.S. manufactured parts, some of which are assembled off-shore. The watch itself is assembled in Cupertino, California.

If you go into any jewelry store in this country you will find the most of the watches available to you there are made either in Japan or Switzerland. We have just negotiated contracts to sell substantial quantities of this watch in both Japan and Switzerland. We now employ over 100 people in our manufacturing plant. We have the beginning of a new industry and it is starting here in the U.S. in a field which has traditionally been dominated by foreign manufacturers. This means more jobs for American workers and a positive balance of trade.

In summary, let me emphasize that the semiconductor industry is an infant but we are growing rapidly. We employ increasing numbers of persons here in the U.S. and our balance of trade contribution is positive, sizeable and growing. If we are to continue to grow we need and ask Congress to provide freedom to compete fairly in the world. We do not want protection. We are willing to stand on our own feet and if we are permitted to do so we will continue to create new jobs and more exports.

Gentlemen, thank you for inviting me to appear before you and for your attention. I would be happy to answer any questions. I will submit a position paper to the Committee and respectfully request that it be made a part of the Committee record.

Position Paper, Prepared by the Semiconductor Industry's Ad Hoc Committee To Preserve Free and Fair Foreign Trade

This position paper presents the views on various aspects of proposed trade legislation of an ad hoc group of semiconductor manufacturers and suppliers to the semiconductor industry. There are approximately nine semiconductor companies with annual sales in 1972 of $211,203,698 and which employ in excess of 11,123 people. There are approximately 29 suppliers in six states.

BASIC STATEMENT OF POSITION

We are in favor of free and fair trade and are convinced that our industry can prosper under the competitive conditions created by free and fair trade. For these reasons,

(1) We are strongly opposed to H.R. 62, the Burke-Hartke Bill;

(2) We support H.R. 6767, the Trade Reform Act of 1973, with certain important exceptions, particularly Section 203(a)(2) which permits the President to suspend Items 806.30 and 807 of the Tariff Schedules of the United States (T.S.U.S.);

(3) We oppose the proposed modifications to the Internal Revenue Code regarding foreign investment, except for the proposal relating to the recovery of tax on foreign losses;

(4) We support the proposed changes relating to adjustment assistance for workers and employers who suffer economic hardship because of foreign competition.

U.S. POSITION WITH RESPECT TO FOREIGN TRADE

For the U.S. to regain a position of world economic leadership, serious negotiations with U.S. trading partners on both tariff and non-tariff matters will be required. And to negotiate effectively, the President will need the kind of tools requested in the Trade Reform Act of 1973. Specifically, the following Presidential authority should be retained in the Act:

The right to raise and lower specific customs duties in the context of negotiated agreements;

The right to negotiate agreements on non-tariff barriers.

In addition, we think that the proposed legislation should provide for mandatory consultation throughout the negotiation process with representatives of industry and labor so that the President's representatives will have current information from those most directly affected—namely, industry, labor, agriculture, and consumers. In this regard, we support the positions taken by both the Electronic Industries Association (EIA) and Western Electrontic Manufacturers Association (WEMA).

Finally, we think that Congress can make and in fact may need to make exceptions for certain industries. For example, we urge that Section 203(a)(2) be eliminated from the proposed bill. If, however, this section is enacted, we suggest that the President not be authorized to suspend Items 806.30 and 807 with respect to the semiconductor industry.

ANTIDUMPING AND COUNTERVAILING DUTIES

The President's proposals regarding the imposition of countervailing duties in the event of unfair foreign competition is especially important to the semiconductor industry. Because this is a young industry, foreign governments are assisting their own semiconductor manufacturers. Since such assistance can give the foreign manufacturer an unfair advantage, and since these manufacturers

may be tempted to sell their products below cost to establish a market position, the U.S. must be able to react quickly and effectively. Specifically, it must be prepared to impose countervailing duties on those countries that dump their products or engage in otherwise unfair practices.

ADJUSTMENT ASSISTANCE

We support adjustment assistance for those industries that require it. If Items 806.30 and 807 of the T.S.U.S. are repealed or suspended for the semiconductor industry, adjustment assistance will definitely be needed in this industry as a consequence of the expected net export of jobs. If, on the other hand, the semiconductor industry is able to continue using Items 806.30 and 807, it is unlikely that there will be a need for adjustment assistance for this industry.

INTERNATIONAL INVESTMENT

The President has stated that investment abroad, on balance, means more and better jobs for workers in the U.S., and the record of the semiconductor industry bears this statement out. Most overseas investments of U.S. semiconductor manufacturers have been designed to meet foreign competition, and by so doing, improve the position of American labor. Proposals such as the Treasury Department's recommendations concerning the taxation of foreign source income would severeley handicap U.S. semiconductor manufacturers in relationship to foreign competitors.

Since the firms most severely affected by the taxation of foreign source income would be those that have the most positive effect on the U.S. balance of payments, such a proposal would have a serious adverse effect on balance of payments. Therefore, we think that any change made in the present regulations would apply only to that portion of the earnings of U.S.-controlled foreign corporations from the sale of products manufactured abroad and sold in the U.S. market.

The semiconductor industry also strongly favors the liberalization of the DISC provisions to further encourage those companies and industries that are developing or expanding their foreign markets. The incentive is especially important to small companies and to companies with growing foreign sales.

ITEMS 806.30 AND 807 T.S.U.S.

Of all the proposals in the Trade Reform Act, the one that permits Items 806.30 and 807 to be suspended by the President is perhaps the single most oppressive proposal as far as the semiconductor industry is concerned. The semiconductor industry, therefore, strongly opposes any change in these Items and urges the Congress to retain them in their present form, at least for the semiconductor industry.

The semiconductor industry is a major beneficiary of these two Items, both of which have contributed significantly to the industry's rapid growth. Any change in them would result in an industry-wide decline in employment in this country, a reversal of the present favorable balance of trade in this industry, a deterioration of the competitive position of U.S. semiconductor manufacturers vis-a-vis foreign producers, and a loss in U.S. technological leadership.

To understand the effect of a setback in the semiconductor industry on unemployment and the balance of trade, it is necessary to be aware of some key statistics regarding the size and importance of the U.S. semiconductor industry. And to understand why the suspension of Items 806.30 and 807 would be so disastrous to the industry, it is necessary to have an understanding of the industry's salient characteristics. These statistics and characteristics are listed below:

(1) The U.S. semiconductor industry dominates world markets. Over 50% of the semiconductor devices sold throughout the world are the product of U.S. companies.

(2) The semiconductor industry, although very young, is growing extremely rapidly. The basic semiconductor device, the transistor, was not invented until 1948. Since that time, annual sales in this industry have grown to a $2.6 Billion volume in 1972 and are expected to reach $3 Billion in 1973. Most of the growth has occurred in the past five years and the growth of the U.S. semiconductor industry has been materially aided by the use of Items 806.30 and 807. The anticipated semiconductor consumption 1973–1980 is expected to be in excess of $40 Billion with at least 40% being of U.S. manufacture.

(3) The semiconductor industry is a high-technology industry characterized by rapid product obsolescence. Typical product life may be as low as five years. Constant technological innovation and automation of production are mutually incompatible; the investment requirements in automating production are so great that they would tend to discourage rapid product changes. And this would be to the disadvantage of the United States, whose present predominance in the field of semiconductor devices is due primarily to its technical superiority.

(4) The procedures and processes in manufacturing silicon wafers (the basic part of a semiconductor device) are highly capital-intensive. The practices and procedures is assembling semiconductor devices are highly labor-intensive. In the United States, where labor is relatively expensive and capital equipment relatively inexpensive, the semiconductor industry performs the capital-intensive operation of wafer fabrication. In those areas of the world where labor costs tend to be low and capital costs tend to be high, local workers perform the labor-intensive operation of assembly of finished devices; and at present, most assembly is in fact performed overseas.

(5) By taking advantage of its technical superiority and by using lower-cost foreign labor, the United States has been able to develop and market high-technology semiconductor devices at prices that allow these devices to be used in a wide variety of electronic equipment manufactured both in this country and abroad. Any action that would either increase costs or slow down technological advance would have a serious effect on the U.S. semiconductor industry and hence on the balance of payments and the unemployment rate.

The operation of a typical user of Item 806.30 and/or 807 in the semiconductor industry is as follows:

Research, development, product design, and process technology are performed at the U.S. facility.

The high-technoolgy part of the manufacturing process—namely, the etching of electronic circuits on silicon wafers—is performed in the U.S. facility. The technology involved in these processes requires a large investment in highly complex equipment, all of which is manufactured in the United States. In addition, most of the raw materials and supplies used in the manufacture of the silicon wafers and the etching of the circuitry thereon are manufactured and produced in the United States.

The manufacturer who makes his own silicon wafer also purchases from U.S. suppliers other materials and parts such as mountings to which the integrated circuits are attached, gold wire for connecting the circuit to its external connection devices, and related items.

The silicon wafers or the circuits that have been produced thereon, along with the parts purchased from U.S. suppliers, are shipped to an overseas assembly plant wherein the tedious and time-consuming work of assembly is performed. This work is at best semi-skilled and requires a minimum amount of equipment in relation to the amount of man-hours spent.

After the various parts and components are assembled into a finished product in the overseas assembly facility, the product is returned to the United States for final testing and packaging for shipment to customers. The product is entered into the United States under Tariff Items 806.30 or 807, with duty being paid upon the value added in the off-shore operations.

After final testing and packaging, the product is shipped to customers throughout the world. A large portion of the product of the semiconductor manufacturers represented in and ad hoc group was shipped directly to customers outside the United States. In addition, much of the product of the semiconductor industry was exported as part of systems, such as computers. Computers, a major U.S. export item, use certain types of standard integrated circuits for both mainframe and peripheral memory storage. And it has been estimated that the cost of the semiconductors represent 15%–25% of the cost of the computer.

U.S. dominance of world markets for computers is due in part to the fact that United States manufacturers, through the use of semi-conductor devices, are able to make and market computers that are less expensive than their foreign counterparts. If the U.S. semi-conductor industry were to become less competitive through the loss of 806.30 and 807, both semiconductor and computer sales would suffer.

The semiconductor industry can make a fairly accurate projection of the adjustments that could be expected if the industry lost the ability to use Items 806.30 and 807. If, in fact, these Items were suspended, it would be reasonable to expect one or more of the following reactions:

(1) The assembly work done off-shore would continue to be done overseas in which case few if any jobs would return to the United States and the added duties would increase product cost significantly which means; foreign producers would become more competitive; the U.S. would import more and export fewer semiconductor devices; U.S. end users would be forced to purchase foreign semiconductor devices to remain competitive; the balance of trade would deteriorate; and U.S. employment in the industry would decrease.

(2) Products destined for foreign markets would *not* be returned to the U.S. for final testing, but would be tested overseas and shipped directly to the overseas customers from the assembly plant. And if some testing is done overseas, it might be more economical to do *all* testing overseas, and this would mean a loss of jobs for American workers.

(3) The U.S. semiconductor industry would purchase parts for overseas assembly from foreign suppliers instead of from U.S. suppliers. Since these foreign-bought parts would be less costly, the value of materials on which duty is paid would be lower when finished products containing these parts are imported into this country.

(4) The entire manufacturing operation (including the manufacture of the silicon wafers) for supplying foreign customers would be transferred to an overseas location.

(5) Eventually all semiconductor manufacturing facilities would be located overseas, and U.S. users would be forced to purchase all of their semiconductor devices-abroad.

If Items 806.30 and 807 were suspended, it would not be economically possible for the industry to operate as it does at the present time. Whatever adaptations the industry made would result in a deterioration of its worldwide competitive position. And because the semiconductor device is basic to the giant electronics and computer industries (and of definite importance to a host of other industries), the repercussions could have a serious effect on the whole economy.

In 1970, the U.S. Tariff Commission completed a study on the economic factors affecting the use of Items 806.30 and 807 of the Tariff Schedules of the United States. In that study, the Tariff Commission came to three conclusions:

(1) That the repeal of these Items would not markedly reduce the volume of imports of the articles that now enter under these provisions;

(2) That repeal would result in the return of only a modest number of jobs to the U.S. and that this would likely be offset by loss of jobs among workers that now produce components for export;

(3) That repeal would result in an adverse affect on U.S. balance of trade.

Although the Tariff Commission's conclusions relate to American industry as a whole, they are particularly pertinent to the products of the semiconductor industry. The one exception is that there would be a marked reduction in the volume of imports entered under these Items because of the direct shipment from overseas assembly plants to foreign purchasers.

SUMMARY

The semiconductor industry thinks that the repeal or suspension of Items 806.30 and 807 of the Tariff Schedules of the United States with respect to the semiconductor industry would cripple an industry that is making a substantial contribution to the well-being of the economy and would result in a deterioration of the balance of trade and a worsening of unemployment. Although the industry can and does support most of the President's other recommendations in the Trade Reform Act of 1973, we are firmly convinced that it would be counter-productive to do away with Items 806.30 and 807 or to permit the President to have the right to suspend the operation of these items.

We are also of the opinion that the changes proposed with respect to taxation on foreign source income would have serious negative effects with respect to balance of trade and the creation of American jobs by the semiconductor industry. For these persons, we urge the Congress of the United States to delete Section 203(a)(2) of the President's proposed legislation and to refuse to enact Treasury recommendations with respect to taxation of foreign source income.

Mr. PACKARD. Mr. Chairman, that completes the testimony of this group.

If you have any more questions, we can respond.

Mr. PETTIS. I might have been taking a telephone call when the

witness passed over this, about the watch that keeps time within 5 seconds a month. Did you show that?

Mr. NOYCE. Since it had been mentioned earlier, this is one of the electronic watches Mr. Kiam referred to this morning. It is made in the United States with U.S. components all the way through. There is some foreign labor in the assembly of the components. We are now selling substantial amounts of these watches to Japan and Switzerland.

Mr. BROTZMAN. What does that watch sell for in the United States.

Mr. NOYCE. $150 retail, $75 wholesale.

Mr. GIBBONS. On behalf of the committee, let me thank this most interesting panel.

Off the record.

[Discussion off the record.]

Mr. GIBBONS. Back on the record.

Let me thank the panel for this most interesting discussion. I think you have thrown a new light on the problem we have had. Most of us don't realize that technology moves as fast as it does. I frankly had not realized that the Hewlett-Packard computer or calculator that I got an ad for a couple of months ago was a wholly U.S.-assembled product other than the silicon chips.

It is interesting to know that the country, as the technology moves forward, does become more competitive rather than less.

Let me ask you one general question. You take the silicon chips, the semiconductors, and you export them in order to the labor on them, to add the wires and the other things and then the covers. What is roughly the value added there, and value added here, when it is reimported, just in the percentage of the value of the final chip? How much of it is United States and how much is foreign labor?

Mr. NOYCE. I have data on our largest selling single product where the manufacture of the wafer costs 72 cents and the package domestically procured is 16 cents. The total overseas labor and assembly is 38 cents out of the total cost of $1.50. So in other cases, depending on the complexity of the chip, it will vary, probably from the most complex chips here in the 5 to 10 percent range to the simpler transistors or diodes to maybe 70 or 80 percent of the total cost.

Mr. HOGAN. It varies from product to product. For our corporation, taking our entire semiconductor division, about 5 percent of the total selling price of the product is contributed value from offshore assembly.

Mr. GIBBONS. Five percent of the total price?

Mr. HOGAN. Yes.

Mr. GIBBONS. Thank you. Thank each of you very much.

Our last witness is Mr. V. J. Adduci, president of the Electronic Industries Association.

I see you have some friends accompanying you. Would you identify yourself for the record, and also identify your associates, and we will be glad to proceed as you wish.

Your formal statement will be made a part of your record, either prior to your beginning your oral statement or at the end.

STATEMENT OF V. J. ADDUCI, PRESIDENT, ELECTRONIC INDUSTRIES ASSOCIATION, ACCOMPANIED BY J. EDWARD DAY AND MITCHELL NEW DELMAN, SPECIAL COUNSEL, AND WILLIAM H. MOORE, VICE PRESIDENT

Mr. ADDUCI. I think you have two versions of the statement; one is a long form and the other is a short one. Surmising that this hearing would go on pretty long, we will read the second short version. I hope the full form will be included in the record.

Mr. GIBBONS. All right, sir. Without objection, it will be included.

Mr. ADDUCI. Mr. Chairman and members of the committee, I am V. J. Adduci, president of the Electronic Industries Association. With me today are: Messrs. J. Edward Day and Mitchell New Delman, as special counsel, and Mr. William H. Moore, vice president of EIA. We welcome this opportunity to testify today.

The electronic industries of the United States have an annual sales volume of some $30 billion and employ directly well over 1 million people.

As the national organization of these industries, EIA speaks for a substantial majority of their employment, investment, and production.

Despite the diversity of their products and the differing sizes and operations of their businesses, the EIA's members are agreed in their broad views on world trade and investment. As recently as March 8, 1973, our association adopted a position paper summarizing the consensus of the vast majority of our members. The preamble to that statement expresses the underlying philosophy of the EIA; I quote:

> . . . EIA reaffirms its belief in the principle of free and fair trade. For this principle to prevail, however, there must be similar support in policy and in fact by nations throughout the world.
>
> This is, unfortunately, not the case. Action must therefore be taken not only to defend that principle but to restore the conditions which are essential for its successful operation.

We would like to add a few other general comments:

We feel strongly that the United States requires a clear statement of international economic policy which should be made part of any new statute on trade. The policy should cover our basic belief in the free enterprise system, especially as it relates to international trade and investment.

It should reemphasize our belief in raising the standards of living of all people and hence reinforce our active desire for peace in the world.

Both objectives can best be achieved by expanded world commerce and industry.

PROPOSALS OF THE TRADE REFORM ACT

We now turn to the proposals embodied in H.R. 6767. These we support in broad concept and most specifics, but we do have questions we want to raise about several aspects of the bill.

One of our primary reasons for supporting these proposals is the fact that they are grounded in an effort to expand world trade and U.S. participation in expanding world markets. EIA believes this is the only approach which offers any hope of economic progress for the United States; and so we support the central concept that lodges in

the Presidency both temporary and permanent authorities that afford extensive management powers over American trade policy.

A second major reason for supporting the proposals in H.R. 6767 is their focus on an aspect of international trade which has been especially troublesome to our industries. This is the fact that so many impediments are presented to the sale of our products elsewhere in the world.

Especially where these products would be competitive as exports, our manufacturers are frequently stymied by all sorts of nontariff barriers.

We applaud all efforts to open the markets of other countries to our products as fully as our markets are open to theirs. We believe this approach deserves your support, and we urge its adoption.

At the same time, we urge that title I of the bill be clarified to insure specific coverage in the forthcoming international negotiations for effective agreements to "reduce, eliminate, or harmonize" the granting of export aids and incentives.

What is objectionable here is aid and support by foreign governments for their exports where such aid effectively reduces the export price below realistic competitive levels.

NEED FOR TIMELY AND ADEQUATE PUBLIC PARTICIPATION

We believe some mechanism should be provided for continuing inputs to the negotiation process by legitimately interested parties.

We are troubled, for example, by the procedures set forth in sections 111 and 114, inclusive. These are, I emphasize, prenegotiation reguirements. The roles accorded not only industry but also labor and public advisory bodies appear to meet only the bare minimal requirements of the Administrative Procedures Act.

We believe, therefore, that the roles of industry, labor, agriculture, and general public should be greatly expanded throughout the negotiating process. We believe that the President's negotiators should mandatorily, and at regular intervals throughout the bargaining and its preparations, be required to consult on matters of substantive objectives and progress with all who are legitimately concerned in the end-results of the process.

We request the exercise of your good judgment and wisdom in plugging this evident procedural gap.

ANTIDUMPING DUTIES AND COUNTERVAILING DUTIES

Our industries, our companies, and our employees have suffered to an undue degree from unfair practices intended to be counteracted by U.S. antidumping and antisubsidy statutes. Consequently, many companies have made filings seeking relief under these statutes.

Unfortunately, we have found that relief is not often granted, it comes so late and is so limited as to be relatively useless. There is no way an injured company can force action, nor does a U.S. company have the right of recourse to the courts on substantive matters in the event of an adverse decision.

We endorse the intent of H.R. 6767 to clarify the processes and to speed up the imposition of antidumping and countervailing duties. The Supreme Court has construed the existing statutes, and they

should be preserved unchanged except for the changes suggested below:

First, time is of the essence in aiding a U.S. industry injured by unfair trade practices. Hence, we support the fastest feasible processing of the complaint.

In the event the committee should conclude that it is not feasible, in countervailing duty cases, to impose time limits short enough to provide relief promptly after a complaint is filed against unfairly subsidized imports, we urge consideration of providing a withholding of appraisement procedure similar to that followed under section 201(b) of the Antidumping Act.

Second, section 330 of H.R. 6767, entitled "Discretionary Imposition of Countervailing Duties," would defeat the purpose of the statute, which offers by far the best help our Government could give us. Accordingly, we vigorously oppose subparagraph (d), and we urge that your committee eliminate it from the bill.

Third, we urge that your committee amend chapters 2 and 3 in title III of the bill to extend to all parties, including U.S. complainants, the right to judicial review in antidumping and countervailing duty cases.

BALANCE-OF-PAYMENTS AUTHORITY

Section 401 provides a method whereby the President may impose "temporary import surcharges when necessary to deal with serious U.S. balance-of-payment problems." We favor this approach and the granting of this authority to the President.

Subsection (c) of section 401 prescribes that actions of this sort shall be applied consistently with the most-favored-nation principle. Subsequent language, however, would permit the President to make exceptions.

We oppose this latter discretionary authority, and we believe that the international obligations should be honored in all cases where the United States is committed to a most-favored-nation approach.

There is also, we feel, an economic justification for application of surcharges, if they prove necessary, on a broad rather than a selective basis. Balance-of-payments deficits and surpluses arise, as we all know, from a very wide and everchanging flow of goods and services, private payments and disbursements, and Federal Government activities. They are also affected by currency valuations.

It is impracticable for the United States to attempt to maintain a zero balance with each separate and distinct country with which we have economic relations.

Worse still, the onus for correcting the national balance of payments is, by this proposal, placed wholly on the back of our merchandise trade without addressing many other equally relevant factors. This is surely discriminatory.

For these reasons, we urge exclusion from the bill of this authorization for selective restrictive actions.

ITEMS 806.30 AND 807

Next, we refer to the proposal in section 203 that the President be authorized to suspend, in whole or in part, the application of items 806.30 or 807 of the tariff schedules.

These items reflect what has long been the U.S. practice to help both our industry and our employees: Encouraging the use of U.S.-made parts in products which are processed or assembled abroad, by charging duty only on the value added in the foreign country.

Eliminate these items and the present U.S. content in such products will be reduced. In the process you will subtract American jobs now involved in making the products which are shipped abroad.

If items 806.30 and 807 are repealed or suspended, the manufacturers affected by these items tell us that in the great majority of cases they will be forced to reduce employment in their U.S. operations.

This contention is supported by the conclusions of the U.S. Tariff Commission in their report entitled "Economic Factors Affecting the Use of Items 807.00 and 806.30 * * *." The Commission found that the net effect of repeal would be both a $150–$200 million deterioration in the U.S. balance of trade and also a net loss of jobs in the United States.

Most users of the items show a favorable balance of trade. Semiconductor and computer manufacturers, for example, in 1972, contributed a favorable balance of trade of approximately $1 billion.

Elimination of the items would threaten U.S. technological and competitive leadership of these segments of our industry utilizing these tariff provisions, and of their American suppliers.

Repeal of these provisions would cause a decline in U.S. production and U.S. employment; repeal would make worse the U.S. net trade balance and the U.S. balance-of-payments deficit. The competitive position of U.S. producers would deteriorate to the direct advantage of foreign producers.

A more serious general consequence could be the loss of U.S. technological leadership in the many electronic areas which would be affected by an elimination or adverse modification of these tariff items.

For all these reasons, we urge the retention of items 806.30 and 807 in their present form.

PROPOSED CHANGES IN THE TAXATION OF FOREIGN-SOURCE INCOME

The Treasury Department has suggested two major changes in the treatment of foreign-source income arising from controlled foreign corporations—CFC's—located in so-called tax holiday countries or shipping a significant volume of their production to the United States.

We believe that enactment of these proposals would provide no benefits to the United States, with the possible but not assured exception of some limited increase in short-term revenues collected by the Federal Government.

Their enactment would, on the other hand, clearly put U.S. corporations in a weaker competitive position with foreign firms in world markets, because no other major country taxes undistributed foreign earnings.

Taxation of undistributed earnings under either proposal would add to the problems of meeting foreign competition and to the burden of raising capital for domestic production and employment.

These tax proposals would also damage U.S. participation in foreign markets where joint ventures with local interests are involved. Faced

with problems arising from the proposed tax legislation, many such interests would team up with non-U.S. companies, thereby seriously reducing U.S. companies' ability to compete in such markets.

Investment incentives—including tax holidays—are granted in most countries. To ignore the world system or to bar U.S. manufacturers from benefiting from such incentives would put any U.S. subsidiary in an unfair and extremely disadvantageous position. U.S. manufacturing subsidiaries must be in a position to benefit from the same tax provisions that are available to our foreign competitors, including foreign competitors heavily engaged in selling to the U.S. market.

Future growth in foreign markets for electronic products is projected to be more rapid than in the United States. Reducing the ability of American companies to compete will restrict their ability to contribute increased earnings, tax revenues, job opportunities, and enhancement of their technological bases.

With respect to the so-called runaway plant provisions of the bill, EIA is particularly concerned with proposals for current taxation of controlled foreign corporations which export to the U.S. market. These important background facts help to explain our position:

By the late 1960's, the U.S. market for radios had been deeply penetrated by imports. By 1970, imports also accounted for 51 percent of the total U.S. market for black-and-white television receivers and 18 percent of the total U.S. market for color receivers.

Up until about 2 years ago the Treasury's enforcement of antidumping and countervailing duty laws was not as aggressive as it has been since. As a result, there was a great deal of unfairness in import competition in television products.

U.S. television manufacturers were fighting to survive. They were forced by this trend to make or procure their sets in Asia and Mexico. TV's and other items made in these plants are exported to the U.S. market.

This has enabled the companies to stay in business. It has also made it possible to continue manufacturing in the United States those receiver models not so vulnerable to import competition and still to have a full line of models.

It is significant that in the last 2 years employment in the United States in the manufacture of television receivers and radios has stopped declining and is showing an increase. Employment in other electronic industries is improving also.

Tax considerations were not the major reason for moving manufacturing offshore. The overwhelming reason was to enable the U.S. industry to compete successfully to producing labor-intensive products and components in countries which would allow for the equalization of the labor advantage enjoyed by non-U.S. manufacturers.

In a key Tariff Commission proceeding 2 years ago, labor unions testified:

> Domestic manufacturers of television receivers decided that the market would go the way of other consumer electronic markets and be wholly dominated by Japanese imports unless they established foreign plants.
>
> There is no way to know whether this development accelerated the end to imports, for total imports might have risen to the 1970 levels by an increase in Japanese imports if no Taiwanese or Mexican plants had been established * * *. Since increased imports caused the U.S. producers to locate abroad, whatever inroads these foreign plants make on Japanese imports do not themselves cause in any meaningful way the increased imports.

The plants are now there—in Taiwan and elsewhere. A huge investment has been made in these plants. For some of the U.S. companies to remain competitive these offshore plants must be expanded.

It is true that some unfair aspects of import competition have recently been reduced. But we have seen that effective enforcement of the antidumping and countervailing duty laws very much depends, regardless of what the laws say, on the attitudes of the administrators in charge. Those attitudes can change. Similarly, relative valuation of currencies could well get out of line again.

It would be grossly unfair to change the law so as to handicap the natural expansion of these offshore plants which were set up to meet the realities of the marketplace.

In summary, we believe that the U.S. Government should take all practical steps to increase international trade and investment, and should vigorously negotiate reciprocally fair trade conditions with our trading partners. We regard this as of paramount importance, and, consequently, we urge that the Congress give the President authority needed to accomplish these purposes.

We also attach great importance to the maintenance of conditions under which our firms can be competitive in foreign and domestic markets. We urge that the Congress enact no legislation which would compromise this objective.

We support the concepts of H.R. 6767 and most of its specifics, except for the following:

1. We urge that the bill be amended to provide the right of continuing participation in, and consultation during, the negotiating process by industry, labor, and other interested American parties.

2. We urge amendments to the bill and statements in the committee report on it to require the full, fair, mandatory, and rapid enforcement of both the antidumping and countervailing duty laws.

3. In connection with the balance-of-payments authority, to insure compliance with our international obligations under the most-favored-nation principle, and for other compelling reasons, we urge an amendment to end the first sentence in paragraph 401(c) after its first 17 words.

4. We urge that the committee delete subsection 203(a)(2) to avoid action which could cause the disappearance of items 806.30 and 807.00. The loss of these tariff items will significantly reduce domestic employment, decrease both domestic and international competitiveness of U.S.-made products, result in a deterioration in the U.S. balance of trade, and seriously threaten our worldwide marketing leadership.

Finally, we urge that Congress not subject American firms to the discriminatory tax measures which have been proposed. To do so would put them at a severe disadvantage compared to foreign firms, which would not be subjected to these discriminatory tax burdens.

Mr. Chairman, we appreciate the time and attention of the committee. Thank you very much.

[The prepared statement of Mr. Adduci follows:]

STATEMENT OF V. J. ADDUCI, IN BEHALF OF THE ELECTRONIC INDUSTRIES ASSOCIATION

Mr. Chairman and Members of the Committee, I am V. J. Adduci, President of the Electronic Industries Association or "EIA." With me today are Messrs. J. Edward Day and Mitchell New Delman, as Special Counsel, and Mr.

William H. Moore, Vice President of the EIA and Director of its International Business Council. We welcome this opportunity, and deeply appreciate the Committee's invitation, to testify on the views of our industries in respect to H.R. 6767 and the Treasury recommendations in the area of foreign source income taxation.

The electronic industries of the United States have an annual sales volume of some $30 billion and employ directly well over one million people, not to mention the large numbers of persons indirectly employed through subcontractors and suppliers and through the thousands of distributors and dealers and their employees.

As the national organization of these industries, the EIA membership represents a substantial majority of the employment, investment, and produdction of this very strategic and technologically oriented sector of the national economy.

Our membership comprises over 200 small, medium and large companies which produce all types of electronic systems, equipment and parts—from the simplest to the most complex. These firms vary in size and business focus from small parts fabricators to very large multi-product manufacturers with international operations and worldwide stature and recognition. They produce the goods which help to provide education, home entertainment and communications in this country and around the world. Their products help to solve our scientific and business problems, enhance the fields of medicine and health, and increase the productivity of the national economy. Their systems and devices guide our planes and contribute to the national defense. Despite the diversity of their products, and the differing sizes and operations of their businesses, the EIA's members are agreed in their broad views on world trade and investment. As recently as March 8, 1973, our Association adopted a position paper summarizing the consensus of the vast majority of our members. A copy was previously provided to the Committee. The preamble to that statement expresses the underlying philosophy of the EIA; I quote: ". . . EIA reaffirms its belief in the principle of free and fair trade. For this principle to prevail, however, there must be similar support in policy and in fact by nations throughout the world. This is unfortunately not the case. Action must therefore be taken not only to defend that principle but to restore the conditions which are essential for its successful operation."

We would like to add a few other general comments for your Committee's consideration in the preparation of trade legislation in this important area.

We feel strongly that the United States requires a clear statement of International Economic Policy which should be made part of any new statute on trade and thereby be made the law of the land. The policy should cover our basic belief in the free enterprise system, especially as it relates to international trade and investment. It should reemphasize our belief in raising the standards of living of all people and hence reinforce our active desire for peace in the world. Both objectives can best be achieved by expanded world commerce and industry. The policy should also emphasize the desire of developed nations to assist in closing the widening gap between advanced and developing nations and thereby, in turn, support our other objectives of higher living standards and world peace.

In a somewhat different vein, we wish to point out that there is real danger that mistakes in legislation on international trade or investment may be impossible to correct in the short term. In some instances it may take decades to undo the ill effects of shortsighted policies. Our point here is only to indicate that we recognize the extremely difficult task that lies before the Committee in balancing all of the reasoned approaches to the issues before it arrives at the correct actions.

PROPOSAL OF THE TRADE ACT

We turn now to the proposals embodied in H.R. 6767. These we support in broad concept and most specifics, but we do have questions we want to raise about several aspects of the bill.

One of our primary reasons for supporting these proposals is the fact that they are grounded in an effort to expand world trade and United States' participation in expanding world markets. EIA believes this is the only approach which offers any hope of economic progress for the United States; and so we support the central concept that lodges in the Presidency both temporary and permanent authorities that afford extensive management powers over American trade policy.

A second major reason for supporting the proposals in H.R. 6767 is their focus on an aspect of international trade which has been especially troublesome to our

industries. This is the fact that so many impediments are presented to the sale of our products elsewhere in the world. Especially where these products would be competitive as exports, our manufacturers are frequently stymied by non-tariff barriers whose effectiveness in restricting imports is far greater than the pevailing level of tariff duties. In some instances, the proscriptions are against selected imported electronics. Sometimes markets are foreclosed to us by nationalistic standards, imposed for protectionist reasons rather than for purposes of safety or technological excellence. Many countries limit the importation of any foreign products if like articles are locally made. Sometimes, too, would-be importing firms find it impossible to secure the requisite foreign exchange—even in countries with swollen surpluses of dollars. In still other cases, our price competitiveness is effectively checked at the frontier through the imposition of border taxes, customs uplift, and the like.

We applaud all efforts to open up the markets of other countries to our products as fully as our markets are open to theirs. We believe this approach deserves your support, and we urge its adoption.

At the same time, we urge that Title I of the bill be clarified to insure specific coverage in the forthcoming international negotiations for effective agreements that "reduce, eliminate or harmonize" the proliferating practices of all trading nations in their granting of export aids and incentives. These distort competitive positions—and thus trade flows—between countries almost as much as non-tariff barriers. Furthermore, such agreements would add strength and clarity to the exercise of the President's retaliatory power set forth in Section 301, as would the proposed amending of the U.S. antidumping and countervailing duties statutes. What is objectionable here is aid and support by foreign governments for the exports of national industries where such aid effectively reduces the export price below realistic competitive levels vis-a-vis other world producers of comparable manufactured goods.

Need for timely and adequate public participation

In what all of us expect to be a protracted and difficult round of bargaining on tariffs and trade distortions, the EIA appreciates the need that great flexibility be provided for this country's negotiators. We also accept the need for a five year grant of negotiating authority, but we believe some mechanism should be provided for continuing inputs from legitimately interested parties.

We are troubled, for example, by the procedures set forth in Sections 111 through 114, inclusive. These are, I emphasize, *prencgotiation* requirements—the seeking of advice well in advance of actual negotiations, mainly from the Tariff Commission and agencies of the Executive Branch. As we read the proposals and draw upon our experience from past rounds of trade negotiations, the roles accorded not only industry but also labor and public advisory bodies appear to meet only the bare minimal requirements of the Administrative Procedures Act. As the proposals now stand, the hearing to be given and attention to be paid these voices are not proportionate with the length of time which negotiations consume or with the obvious fact that sweeping changes in rules of trade emerging from such negotiations impact the private sector far more than the Government.

We believe, therefore, the roles of industry, labor, agriculture and the general public should be greatly expanded throughout the negotiating process. We believe that the President's negotiators should mandatorily, and at regular intervals throughout the bargaining and its preparations, be required to consult on matters of substantive objectives and progress with all who are legitimately concerned in the end-results of the process. Previous experience has shown the desirability for such procedure in tariff matters. By the very nature of their selective workings, trade distorting devices and practices have unequal effects on kept within the attention of our negotiators. EIA is confident that this Com-differing industries and consumers; these, in particular, should be continuously mittee and the Congress will be as sensitive to these questions as to the Congressional role in leislating and overseeing trade policy. We request the exercise of your good judgment and wisdom in plugging this evident procedural gap.

Antidumping duties and countervailing duties

Our industries, our companies, and our employees have suffered to an undue degree from unfair practices intended to be counteracted by U.S. antidumping and anti-subsidy statutes. Consequently, many companies have made filings seeking relief under these statutes. Unfortunately, we have found that relief is not often granted, and if granted, it comes so late and is so limited as to be relatively

useless. There is no way an injured company can force action, nor does a United States company have the right of recourse to the courts on substantive matters in the event of an adverse decision. We endorse the intent of H.R. 6767 to clarify the processes and to speed up the imposition of antidumping and countervailing duties. The Supreme Court has construed the existing statutes, and they should be preserved unchanged except for the changes suggested below:

First, time is of the essence in aiding a U.S. industry injured by unfair trade practices. Hence, we support the fastest feasible processing of the complaint; we also urge that the Committee's report on the Bill contain language stressing the importance of speedy determination and instructing the agencies involved to take all feasible administrative steps to expedite these procedures. In the event the Committee should conclude that it is not feasible, in countervailing duty cases, to impose time limits short enough to provide relief promptly after a complaint is filed against unfairly subsidized imports, we urge consideration of providing a withholding of appraisement procedure similar to that followed under Section 201(b) of the Antidumping Act.

Second, unfortunately Section 330 of H.R. 6767 proposes adding a new subparagraph (d) to the countervailing duty law, to be entitled "Discretionary Imposition of Countervailing Duties." This would provide that after the use of a bounty or grant has been determined, the Secretary of the Treasury may nevertheless decline to impose any additional duty. This would defeat the purpose of the countervailing duty statute, which offers by far the best help our Government could give us. Accordingly, we vigorously oppose subparagraph (d), and we urge that your Committee eliminate it from the Bill.

Third, we urge that your Committee amend Chapters 2 and 3 in Title III of the Bill to extend to all parties, including U.S. complainants, the right to judicial review in antidumping and countervailing duty cases.

Balance of payments authority

Section 401 provides a method whereby the President may impose "temporary import surcharges when necessary to deal with serious United States balance of payment problems." We favor this approach and the granting of this authority to the President.

Subsection (c) of Section 401 prescribes that actions of this sort shall be applied consistently with the most-favored-nation principle. Subsequent language, however, would permit the President to make exceptions. We oppose this discretionary authority, and we believe that the international obligations should be honored in all cases where the United States is committed to a most-favored-nation approach.

There is also, we feel, an economic justification for application of surcharges, if they prove necessary, on a broad rather than a selective basis. Balance of payments deficits and surpluses arise, as we all know, from a very wide and ever-changing flow of goods and services, private payments and disbursements, and Federal Government activities. They are also affected by currency valuations. Some of these flows are the result of long-term trends of supply or demand, as for example in basic materials; others are as short-term as the fluctuations in foreign purchases and redemptions of securities on the New York Stock Exchange. Furthermore, these flows of goods and services and money alike are bilateral and multilateral between the United States and other countries. As a result, it is impracticable for the United States to attempt to maintain a zero balance with each separate and distinct country with which we have economic relations. Yet, such is the direction that could be taken if selective authority were conferred on the President.

Worse still, the onus for correcting the national balance of payments is, by this proposal, placed wholly on the back of our merchandise trade without addressing purchases and sales of securities, currency revaluations, tourism, services, triangular trade, government spending and many other equally relevant factors. This is surely a discriminatory matter in the whole panoply of different classes of transactions which affect the balance. For these reasons we urge exclusion from the Bill of this authorization for selective restrictive actions. To that end we recommend ending 401(c) with the word "principle" in its second line, by deleting the rest of the first sentence of that paragraph (c).

Items 806.30 and 807.00

Next, we refer to the proposal in Section 203 that the President be authorized to suspend, in whole or in part, the application of Items 806.30 or 807.00 of the Tariff Schedules of the United States.

These Items of the Tariff Schedule reflect what has long been the U.S. practice to help both our Industry and our employees: Encouraging the use of U.S.-made parts in products which are processed or assembled abroad, by charging duty only on the value added in the foreign country. Eliminate these Items and the present U.S. content in such products will be reduced. In the process you will subtract American jobs now involved in making the products which are shipped abroad.

To give you one illustration of the beneficial nature of the Items, recently we received a letter from the President of a United States electronic components company. He told us that during the period 1970–71, his business experienced very difficult times competing against foreign and domestic companies while manufacturing his product in Florida with the aid of 160 domestic employees. In mid–1971, he established a border assembly plant in Mexico. The action immediately enabled the company to grow and compete very favorably in both foreign and domestic markets. Today this same company employs 375 people in Florida with associated assistance of 100 people in their Mexico assembly plant. In other words, the establishment of the Mexico plant with its 100 jobs allowed the company to create an additional 200 jobs in the United States. Because the company has become more competitive, it also increased its export sales from $100,000 to $700,000 in the current year. If Items 806.30 and 807.00 disappear, he tells us that he will be forced to cut back to his former level and perhaps lower. This case is not unique and again emphasizes the employment opportunities derived from this tariff item.

If Items 806.30 and 807.00 are repealed or suspended, the manufacturers affected by these Items tell us that in the great majority of cases they will be forced to reduce employment in their U.S. operations. This contention is supported by the conclusions of the U.S. Tariff Commission in their report entitled "Economic Factors Affecting the Use of Items 807.00 and 806.30 . . ." (1970—#332–61) The Commission found that the net effect of repeal would be both a $150–$200 million deterioration in the U.S. balance of trade and also a net loss of jobs in the United States.

Most users of the Items show a favorable balance of trade. Semiconductor manufacturers, for example, have been generating a trade surplus well over $125 million a year. Moreover, semiconductors are building blocks for the electronic products which United States companies are most successful in selling abroad. Semiconductors represent from 15% to 25% of the cost of computers, and, to a significant degree, are responsible for the United States leadership in computer technology. In 1972, these two industries contributed a favorable balance of trade of approximately one billion dollars.

We have talked with most of the firms which now, to supply their offshore assembly facilities, either produce or buy in the United States electronic components made by Americans. They have indicated that, if they were faced with the increased cost of U.S. duties placed against American goods, they would instead be forced to secure those components overseas. Partially finished products now returned to the United States for further processing or assembly under Items 806.30 and 807.00 would be completed overseas, or certainly a repeal of those items would encourage their completion overseas.

Thus, elimination of the Items would threaten U.S. technological and competitive leadership of these segments of our industry utilizing these tariff provisions, and of their American suppliers.

Repeal of these provisions would cause a decline in U.S. production and U.S. employment; repeal would make worse the U.S. net trade balance and the U.S. balance of payments deficit. The competitive position of U.S. producers would deteriorate to the direct advantage of foreign producers. A more serious general consequence could be the loss of U.S. technological leadership in the world in the many electronic areas which would be affected by an elimination or adverse modification of these tariff items.

For all these reasons we urge the retention of Items 806.30 and 807.00. This can be done very simply be deleting subsection 203(a)(2) of H.R. 6767. We urge that your Committee delete that subsection.

PROPOSED CHANGES IN THE TAXATION OF FOREIGN-SOURCE INCOME

The Treasury Department has suggested two major changes in the treatment of foreign source income arising from controlled foreign corporations ("CFC's") located in so-called tax holiday countries or shipping a significant volume of their production to the United States.

We believe that enactment of these proposals would provide no benefits to the United States with the possible but not assured exception of some limited increase in short-term revenues collected by the Federal Government. Their enactment would, on the other hand, clearly put U.S. corporations in a weaker competitive position with foreign firms in world markets, because no other major country taxes undistributed foreign earnings.

Taxation of undistributed earnings under either proposal would lead to increased costs to the American corporation either directly or through additional borrowing. This adds to the problems of meeting foreign competition, and to the burden of raising capital for domestic production and employment.

These tax proposals would also damage U.S. participation in foreign markets where joint ventures with local interests are involved. Faced with problems arising from the proposed tax legislation, many such interests would team up with non-U.S. companies, thereby seriously reducing U.S. companies' ability to compete in such markets.

Investment incentives (including tax holidays) are granted in most countries. To ignore the world system or to bar U.S. manufacturers from benefitting from such incentives would put any U.S. subsidiary in an unfair and extremely disadvantageous position in serving the local market in which the plant is located or third country markets throughout the world. U.S. manufacturing subsidiaries must be in a position to benefit from the same tax provisions that are available to our foreign competitors, including foreign competitors heavily engaged in selling to the U.S. market.

Future growth in foreign markets for electronic products is projected to be more rapid than in the United States. American companies should be encouraged to participate in this growth. Reducing their ability to compete will restrict their ability to contribute increased earnings, tax revenues, job opportunities, and enhancement of their technological bases.

With respect to the so-called runaway plant provisions of the Bill, EIA is particularly concerned with proposals for current taxation of controlled foreign corporations which export to the United States market. These important background facts help to explain our position:

By the late 1960's, the U.S. market for radios had been deeply penetrated by imports, and U.S. manufacturing of home-type radios had been severely curtailed. At that time, the U.S. manufacturers of consumer electronics products saw that the same thing was about to happen to television receivers. By 1970, imports accounted for 51% of the total U.S. market for black and white TV receivers and 18% of the total U.S. market for color receivers.

Up until about two years ago the Treasury's enforcement of anti-dumping and countervailing duty laws was not as aggressive as it has been since. As a result, there was a great deal of unfairness in import competition in televiion products.

United States television manufacturers were fighting to survive. They were forced by this trend first to purchase some components abroad, and when this proved inadequate, they began to make or procure their sets in Asia and Mexico. A number of our member companies set up manufacturing facilities in Taiwan, Hong Kong, Singapore and Mexico, not only for making TV receivers but also for making components for the electronics industry, TV's and other items made in these plants are exported to the U.S. market. This has enabled the companies to stay in business. It has also made it possible to continue manufacturing in the United States those receiver models not so vulnerable to import competition and still to have a full line of models. For example, a company might make its color receivers in the United States and its black and white receivers in Taiwan. Or it might make its larger screen sizes in the United States. It is significant that in the last two years employment *in the United States* in the manufacture of television receivers and radios has stopped declining and is showing an increase. Employment in other electronic industries is improving also.

Tax considerations were not the major reason for moving manufacturing off shore. The overwhelming reason was to enable the U.S. industry to compete successfully by producing labor-intensive products and components in countries which would allow for the equalization of the labor advantage enjoyed by non-U.S. manufacturers.

In a key Tariff Commission proceeding two years ago, labor unions testified: "Domestic manufacturers of television receivers decided that the market would go the way of other consumer electronic markets and be wholly dominated by Japanese imports unless they established foreign plants. There is no way to know whether this development accelerated the trend to imports, for total imports might have risen to the 1970 levels by an increase in Japanese imports if

no Taiwanese or Mexican plants had been established. . . . Since increased imports caused the U.S. producers to locate abroad, whatever inroads these foreign plants make on Japanese imports do not themselves cause in any meaningful way the increased imports."

The plants are now there—in Taiwan and elsewhere. A huge investment has been made in these plants. For some of the U.S. companies to remain competitive these offshore plants must be expanded.

It is true that some unfair aspects of import competition have recently been reduced. But we have seen that effective enforcement of the antidumping and countervailing duty laws very much depends, regardless of what the laws say, on the attitudes of the administrators in charge. Those attitudes can change. Similarly, relative valuation of currencies could well get out of line again.

It would be grossly unfair to change the law so as to handicap the natural expansion of these offshore plants which were set up to meet the realities of the market place.

SUMMARY

In summary, we believe that the United States Government should take all practical steps to increase international trade and investment, and should vigorously negotiate reciprocally fair trade conditions with our trading partners. We regard this as of paramount importance, and, consequently, we urge that the Congress give the President authority needed to accomplish these purposes.

We also attach great importance to the maintenance of conditions under which our firms can be competitive in foreign and domestic markets. We urge that the Congress enact no legislation which would compromise this objective.

We support the concepts of H.R. 6767 and most of its specifics, except for the following:

1. We urge that the Bill be amended to provide the right of continuing participation in, and consultation during, the negotiating process by Industry, Labor and other interested American parties.

2. We urge amendments to the Bill and statements in the Committee Report on it to require the full, fair, mandatory, and rapid enforcement of both the antidumping and countervailing duty laws.

3. In connection with Balance of Payments Authority, to insure compliance with our international obligations under the most-favored-nation principle, and for other compelling reasons, we urge an amendment to end the first sentence in paragraph 401(c) after its first seventeen cards.

4. We urge that the Committee delete subsection 203(a)(2) to avoid action which could cause the disappearance of Items 806.30 or 807.00 of the U.S. Tariff Schedules. The loss of these tariff items will significantly reduce domestic employment, decrease both domestic and international competitiveness of U.S.-made products, result in a deterioration in the U.S. balance of trade, and seriously threaten our world-wide marketing leadership.

Finally, we urge that Congress not subject American firms to the discriminatory tax measures which have been proposed. To do so would put them at a severe disadvantage compared to foreign firms, which would not be subjected to these discriminatory tax burdens.

Mr. Chairman, we appreciate the time and attention of the Committee. Thank you very much.

Mr. GIBBONS. We thank you for your presentation and want to especially welcome Mr. J. Edward Day, our former Postmaster General, who is with you today. We know of his distinguished service to the country, and I am sure he is rendering the same sort of distinguished service to your organization.

Mr. Fulton?

Mr. FULTON. You say on page 10:

Up until about two years ago the Treasury's enforcement of antidumping and countervailing duty laws was not as aggressive as it has been since. As a result, there was a great deal of unfairness in import to competition in television products.

Can you give the committee evidence of this new aggressiveness on behalf of enforcement?

Mr. DAY. Since 1966 there have been 15 different cases filed involving dumping charges for electronic products. As an example, the big case, which was the one involving television receivers themselves, was filed in 1968 and nothing really happened for 3 years.

In nearly all of the other cases, in the period 1967 and 1968, there were findings that there was not a sale below fair value. So, the industry really got no place with these numerous dumping charges until the last couple of years. It was in 1971 that the finding was made that there was dumping of television receivers. Just 2 months ago, they finally began imposing the actual dumping duties as a result of efforts to get the process going on the charges in that case.

Mr. FULTON. Are you familiar with whether or not the Treasury has ever actually invoked countervailing duty laws against the Japanese electronic products?

Mr. DAY. No, they have not.

Mr. FULTON. What is the most serious source of imports in the electronic field into this country?

Mr. DAY. Japan, there is a major case pending now involving a countervailing duty charge against Japanese television imports.

Mr. FULTON. Do you know how long it has been pending?

Mr. DAY. It has been pending about 1½ years. It is still under active study by the Treasury Department.

Mr. FULTON. That is why I find it difficult to understand this new aggressiveness you speak of over the last 2 years.

Mr. DAY. That case was not brought by our association. My impression is that that case lay somewhat dormant for a time and has become much more active recently under the new policies of the Treasury. The same has been true with the dumping cases. There has been a noticeable speedup, a noticeable tightening up of the regulations in the last couple of years.

Mr. FULTON. I sometimes think more emphasis has been placed on impoundments rather than antidumping legislation.

Mr. Adduci, it appears from your testimony that there is a great concern that items 806.30 and 807 of the Tariff Schedule might be eliminated and you claim in your testimony that the use of items 806.30 and 807 are the only way to be competitive in the United States against the foreign imports and to meet competition in foreign markets.

I certainly can understand foreign markets for our high-technology products, but I am told that there is virtually no export market for television sets and stereos, which is the main product your industry produces offshore. Therefore, I must assume these products are destined to return to the United States.

In my estimation of your testimony, you are not fighting hard for controls to reduce the foreign imports to the United States so that you might expand your U.S. plants instead of those offshore. I certainly assume, therefore, because you have made heavy investments you do not want to return to the United States.

If this is the case, and it appears to me it is, those of your industry manufacturing offshore under 806.30 and 807 will always be more competitive than those companies who continue to manufacture in the United States.

Also, alarming to me is the aspect of future companies, who might want to enter the electronic consumer product business. It certainly

appears that any new company would be foolhardy to establish a manufacturing plant in the United States.

Would this not curtail the growth o four U.S. industry and labor? I think this is something we have to face up to sooner or later. I would like to ask you at this point what you in this industry recommend could be done to assure competitive fairness to those companies which do not elect to go offshore and to protect the future erosion of your industry?

Mr. ADDUCI. I will ask Mr. New Delman to answer that question.

Mr. NEW DELMAN. Congressman Fulton, your statement of the question obviously indicates the complexities of the issues here. In our opening remarks we indicated that we are an association made up of electronic industries which means we not only have member companies manufacturing consumer products—television—but also manufacturers of semiconductors, components, the entire spectrum of electronic products.

The question that you posed also indicates that there are several different types of offshore facilities or as Dr. Hogan earlier in the day coined a new term "market penetration" or "market support" facilities, if you will.

The decision to place a plant overseas is not based on taxes. It is based on a very hardnosed business decision, business realities. For those member companies who have decided to place an offshore facility overseas to serve an offshore market we have demonstrated in our testimony and other testimony today that there is a phenomenon which occurs.

There is an export pull. There are American jobs created as a result of this offshore facility, servicing a local market. That is one type of offshore facility.

There is another offshore type of plant which has been most prevalent in the semiconductor industry. Again, it was mentioned in earlier testimony. This is really the same kind of question as whether a glass is half full or half empty. That is, that the best defense for the United States is a good offense.

The semiconductor industry decided to carve out with as fine a surgical knife as it could, the part which was uncompetitive in labor cost and move that offshore so as to avert the total penetration of foreign manufacturers in this market and it worked.

In fact, the semiconductor industry got quite a shock 6 or 7 years ago when Japanese-made semiconductors began to have a presence in this market. So they—the U.S. manufacturers—became competitive, very much so, and very successfully by taking the high labor aspect which will always be present in such manufacturing and put it in their—the Japanese manufacturers—own backyard to equalize the advantages.

An "advantage equalizing" plant might be a good term to use here.

Mr. FULTON. How many jobs have we lost in the manufacture of television sets? You said we had a gain overall.

Mr. NEW DELMAN. We actually had a gain in television manufacturing in the United States over the last several years.

Mr. FULTON. What would that gain be?

Mr. NEW DELMAN. I know one of our member companies submitted some statistics.

Mr. DAY. The figure in the U.S. Industrial Outlook published by the Department of Commerce is that there was a 6-percent increase between 1970 and 1971 in employment in the consumer electronics industry. Nearly all of this is television.

Mr. FULTON. That is a 6-percent gain for radio and television. What is our overall gain for 1970–71, our additions to the labor force? I think we would find that to be much more than 6 percent.

Mr. MOORE. If you are asking for the change in total manufacturing employment in the entire United States between 1970 and 1971 I have a table here that indicates that was a loss of 4 percent in total.

Mr. FULTON. In manufacturing?

Mr. MOORE. Yes.

Mr. FULTON. We have had an increase in employment so that means we are even going more and more toward a service nation than I realized.

Mr. NEW DELMAN. Not really. Let's go back to your question regarding television manufacture because there is this third kind of plant. I explained about the plant that went offshore to service a foreign country, a third market, the kind of company placed offshore to be an aggressive measure for the U.S. market, the 806, 807 type plants.

A third type of plant may be; and this is typical in the TV industry where a plant is established in Taiwan, in Malaysia, in Japan for the manufacture of product for the return of that product to the United States. Some of these plants use 806.30 and 807.00 and this is an advantage to them to be able to use the maximum amount of American-made componentry.

If anything, it would possibly behoove Congress to liberalize these tariff items to let these plants use more American componentry. In these types of plants the phenomenon that has occurred is that we have American manufacturers of TV who have been able to fulfill their line with the small screen TV's in which foreign manufacturers have been most competitive.

So when they service their distributors and their major customers they can offer everything from the 25-inch screen down, color and black and white with their own quality standards. This has been a major factor in recapturing markets in the United States. The one company submission I am familiar with showed dramatically I think, from 1970 when a Taiwan plant was established their sales of TV, full line, color and black and white raised—I don't know the percentage—but it was almost $100 million. Their U.S. employment level went from slightly over 4,000 employees to slightly over 8,000 employees in these 2 years and the curves are amazingly parallel.

Whether it is due to the Taiwan plant, the ability to serve their U.S. customers better, we don't know, but it is a fact and there is one other aspect of your question which I think we should address ourselves to and that is what about the American manufacturer who chooses not to establish a plant overseas.

We are not privy to the business decisions, the board of directors' decisions, if you will, that went into this conscientious business plan not to produce overseas; not to source overseas. But everyone in business must make their own judgment based on their own abilities to manufacture a product which takes into account their capital cost,

overhead, productivity, whatever. They have to decide if they can be competitive in their market.

If they feel they can without taking advantage of the offshore manufacturing potentials or possibilities, fine, that is their own business. Whether I would recommend someone go into this business today totally manufacturing their product in the United States, I would presume that that is going to be their own business decision. If they think they can make a better mousetrap, they can try it.

Mr. KARTH. I don't know if what you said squares with what you say on page 9 of your testimony. On page 9, and I will read the last sentence of that page:

> By 1970 imports also accounted for 51 percent of the U.S. market for black and white receivers and 18 percent of the total U.S. market for color receivers.

Is that clever language or do you mean to say that 82 percent of the color television sets are manufactured in the United States? If so, you can't be serious about all this tremendous competition if you don't manufacture overseas in line with the colloquy you had with my colleague, Mr. Fulton.

Is that what you mean, 82 percent of the color television sets are manufactured in America?

Mr. DAY. That is correct, but the Japanese were much later in getting into the color business than they were in black and white. The concern there that is expressed on that page is the trend. We had the same trend developing that took place in radio and wiped out home radio.

Mr. KARTH. What does the 18 percent become in 1972?

Mr. DAY. Fortunately, in 1972 all imports from Japan began to go down. They are down in the early months of this year.

Mr. KARTH. What is the 1972 figure for the total color television sets made in the United States? What does that 18 percent become?

Mr. DAY. I don't have it broken down between color and black and white, but in 1971 the total units from Japan alone were 3,700,000. By 1972, they had gone down to 2,800,000. I believe that color leveled off.

Mr. KARTH. What you are talking about is there is not as much competition as you are leading this committee to believe. The manufacturer making a color television set in the United States is very able to compete with Japanese imports.

Mr. DAY. He is able to compete on color television because there has been so much improvement due to the revaluation of the currency, due to the fact that the dumping laws are being enforced more strictly and because of the fact that the American manufacturers have been able to keep their prices level or down.

But as we point out in the statement, there is a strong possibility that antidumping enforcement could go back to what it used to be or that currencies could get out of balance again and it is these trends we have in the past that we were faced with that show why these companies have had to take this step as a last resort.

Mr. KARTH. I agree with you on antidumping that we ought to vigorously enforce it if it is not being enforced and we ought to change the law if the administrators feel they don't have the power to enforce it but I am concerned about the discrepancy I see in your testimony, to wit: U.S. manufacturers have had to go to Taiwan and Mexico to com-

pete, otherwise all of the marketplace would be gobbled up by foreign sales and that is not true according to your own testimony; 82 percent of it is made in the United States.

Mr. DAY. The great volume of the Taiwan production is black and white. There is a very small proportion of the Taiwan production or of the Mexican production that is color. The black and white situation was definitely getting similar to what it was on radio. It was getting up over 50 percent when these facts of life faced these companies.

There is not very much color production in the offshore plants.

Mr. KARTH. I guess not according to these figures. I was led to believe that about 90 percent or more of all of the color television sets bought by Americans were foreign made and you have convinced me that just the opposite is true. Eighty-two percent of the color television sets are manufactured in the United States and probably more now.

Mr. FULTON [presiding]. If you will yield just a moment, I would like to know which companies are manufacturing color TV sets in the United States now.

Mr. DAY. Nearly all of the 15 U.S. manufacturers that are left are manufacturing either all or substantially all of their color sets in the United States.

Mr. FULTON. Are they assembling those TV sets in the United States?

Mr. DAY. It is a question of how you use that word. There are foreign components included for most of those companies but they are being manufactured here, the completed set.

Mr. FULTON. Within the boundaries of our 50 States, 82 percent of all color TV sets are American-made?

Mr. DAY. That is correct, at the present time.

Mr. FULTON. Or just made American because of American investments?

Mr. DAY. I did not get it.

Mr. FULTON. I am not sure I get it either.

Mr. NEW DELMAN. Your question probably concerns country of origin and not just slapping a "Made in America" name on it. The testimony is consistent and I think the two questions are related. If you take the other side of the 18 percent, you come to 82 percent of the color television sets are being made in the United States by American manufacturers. As Mr. Day pointed out certain parts of these sets are imported from Japan, let us say.

Mr. FULTON. What part?

Mr. NEW DELMAN. Typically tuners.

Mr. KARTH. 10 percent, 50 percent, 80 percent?

Mr. NEW DELMAN. That varies from company to company.

Mr. DAY. I would say 25 percent is not too bad an estimate.

Mr. KARTH. You are saying 52 percent of that 80 percent is really made foreign; is that correct?

Mr. DAY. Your big factor is the picture tube and a big proportion of those are made in the United States.

Mr. KARTH. Is 50 percent of the cost of that set manufactured abroad?

Mr. DAY. Yes; more than 75 percent is U.S.-made, U.S. components.

Mr. KARTH. Let me request for the record that these gentlemen furnish for the record as precise figures and estimates in line with

your interrogation and mine on this whole question of how much of the color television sets, the black and white television sets and the radios are in fact manufactured in the United States and how much of the total cost of those products are manufactured abroad and imported to the United States, whether the stamp goes on "Made in the United States" or what.

I ask that that be furnished for the record without objection.

Mr. ADDUCI. We will so do.

[The following was subsequently received:]

COX, LANGFORD & BROWN,
Washington, D.C. June 21, 1973.

Mr. JOHN M. MARTIN, Jr.,
Chief Counsel, Committee on Ways and Means,
Longworth House Office Building, Washington, D.C.

DEAR JOHN: At page 2853 of the transcript of the hearing on trade legislation on May 30, 1973, Congressman Karth asked that the witnesses for the Electronic Industries Association furnish for the record figures on imported components included in consumer electronic products manufactured in the United States. The following is our response to this request.

As Special Counsel for the Electronic Industries Association, I have talked to executives of a number of the member companies in order to arrive at accurate percentage figures to respond to Mr. Karth's request. The reply to his request is subject to a great many variables. The determination of a percentage figure depends on whether the cost of imported components is to be compared only with the cost of all components in the particular product or whether the cost of imported components is to be compared with the total manufacturer's cost. The total manufacturer's cost, of course, includes labor, overhead and many other factors aside from the cost of components.

In addition, the percentages for imported components will vary widely depending upon the type of product being manufactured. If the product is a large console-type television receiver containing a great deal of wood, the contribution of the imported electronic components to total cost will be lower. On the other hand, in the lower-priced smaller receiver, the cost of imported components would often represent a higher percentage, both of total cost of all components in that receiver and of total manufacturer's cost of that receiver.

The problem is still further complicated by the fact that in the case of the picture tube, which is a significant part of the total cost of components in a television receiver, part of the tube may be assembled or manufactured offshore. Therefore, although most picture tubes are American-made, in the case of some picture tubes, imports are a factor in the manufacture of selected parts of such tubes.

As to other components even though they may be purchased from U.S. sources, the supplier may obtain or manufacture some of them at offshore locations.

There are other variables in this area which make any figures which we supply merely estimates on the basis of our best judgment as to typical situations.

Our best estimate of the range of percentage figures, comparing cost of imported components with total manufacturer's cost, is as follows for three principal categories of television receivers:

Black and white receivers—15 to 35 percent;

19-inch and under color receivers—10 to 25 percent;

20-inch and over color receivers—8 to 25 percent.

The ranges in percentages represent variations among companies and among specific models of television receivers manufactured by a particular company.

We are not furnishing percentage figures for radios because, as our testimony pointed out, home radios are no longer manufactured in the United States.

Best wishes,

Sincerely,

J. EDWARD DAY.

Mr. NEW DELMAN. On the point you were making about the 18 percent, Congressman Karth, it is also important that we respond there was a trend obviously which can be established over any two points

in time; 2 years or 3 years is enough to make a trend dramatic. There was concern. Basically there were inroads into the smaller screen size televisions and I think that trend has been turned around.

Mr. KARTH. I did not understand that to be your testimony at all when you were engaged in colloquy with Mr. Fulton. You said and I think the record will bear this out and I shall look at it tomorrow, you said if American corporations had not moved abroad and built plants in Taiwan and Mexico, they would not have been able to compete.

Frankly, I don't think that is true if what you now say is correct.

Mr. DAY. I think, Mr. Karth, the experience on radio proves that is true. It went up so that practically 100 percent of the home radio market in the United States is imported products. We saw that happening over a period of years that with a steady rise, and the same thing began to happen and happened to a very large degree with black and white television receivers.

It was that very strong trend of the dropoff in the proportion of total sales that were U.S.-made products that caused companies to use various methods to try to compete, (*a*), by using foreign components; (*b*) by actually having the sets manufactured in Japan; and (*c*), by going offshore to have them manufactured.

Mr. KARTH. I agree that trends are important and we must give attention to them. However, according to your testimony at this point it is also that the trend is moving in the reverse direction, that the importation of both black and white and color television sets from abroad are in fact declining, not increasing, so that is a favorable trend, and I am glad for that.

I think with American ingenuity and our capability to advance technologically, we can make a better mousetrap. I don't know anyone in this room who is a purchaser of a television set who would not agree they could be made much better. Having the things repaired almost keeps you in the poorhouse.

I think American enterprise and American ingenuity can do that. I think we are on the way.

Mr. NEW DELMAN. There were other contributing factors. We will submit it for the record. The monetary realinement and also perhaps the changing attitudes of the Government of Japan shifting from consumer electronics to perhaps industrial electronics emphasis in support of their export trade might have been another contributing factor.

Mr. FULTON. If it is true, the trend is reversing itself, why are so many of our American companies still going abroad?

Mr. DAY. We have stated in our statement, Mr. Fulton, that the Treasury attitude toward antidumping enforcement has been an important part in the change and it can change back again.

Mr. FULTON. With the 15 cases in the files since 1967, I don't see how that can have anything to do with a trend. They are not doing anything with their antidumping any more than they were doing prior to that time.

Mr. DAY. That is only cases involving electronic products. There have been many cases——

Mr. FULTON. The electronics industry is the one most severely hurt in this country and 15 cases seems like a minimal amount.

Mr. DAY. More dumping has been found recently in other industries as well as ours.

Mr. FULTON. Mr. Day, you mentioned that television imports from Japan had a reduction from 3 million sets to 2 million sets. At the same time, they were exporting fewer television sets to this country. How many more television sets were being exported to this country from Taiwan, Mexico, or some of the other countries?

Mr. DAY. It has gone up substantially. For 2 years, in 1971, the number of units from Taiwan was about 1,250,000 and in 1972 it was about 2,950,000. Part of that is affected by the fact that Japanese companies also have set up plants on Taiwan.

So part of your imports that used to be attributed to Japan are now coming from Japanese companies in Taiwan.

Mr. FULTON. The difference is the "Made in Taiwan" label on it.

If a color TV set, we will say, is manufactured in Taiwan, the television set will say owned by General Electric or Zenith or Sylvania, or whoever it may be. If it is manufactured there and retails in Nashville, Tenn., for $400, what is the difference in the cost or the profit, we will say, to the distributor of a color TV set manufactured in this country? Are there any savings for the consumer?

Mr. DAY. The overall industry has had a most unusual record in having their prices going down rather than up in contrast to other products but I understand your question. I don't know the answer to that. I don't know if we can derive it.

As I say, companies use various approaches to try to stay in the black and white business, and I believe that the matter of whether they were in Taiwan or whether they bought direct from Japan or whether they relied entirely in imported components all average out. I don't think the fact that a set was made in Taiwan has a direct effect on the price to the consumer.

Mr. FULTON. But it should not if the reason for it being manufactured in Taiwan is the cheaper labor?

Mr. DAY. The labor cost is not a tremendous factor in this industry. As Mr. Packard pointed out, I think, in his branch of the electronics industry, it is about 10 percent. Ours is somewhat higher than that but it is not that direct a relationship in reflecting lower costs.

Mr. FULTON. Do you mean an electronics worker in Taiwan——

Mr. DAY. I am talking about the total cost of direct labor in a television receiver as the portion of the cost. In a receiver on the average direct labor runs to something under 20 percent.

Mr. FULTON. If it approximately is 20 percent in labor for a television manufactured, assembled in Taiwan, is that 20 percent passed on to the consumer?

Mr. DAY. I am sure it is because all of these companies are in a highly competitive situation. There is a great deal of price rivalry between them and I know that they pass on any cost savings they can make in order to try to keep up their share of the market.

Mr. FULTON. Most of the major TV sets, if it is a 21-inch screen, don't imported and domestic sets retail within a few dollars?

Mr. DAY. I think it it similar to any major industry of that kind such as automobiles. If you can identify something which is really a highly comparable model, it will probably be very close in price because of the realities of the marketplace.

They could not afford to charge much more than their competitors.

Mr. FULTON. A lot of the people who are advocating free trade

to the marketplace, selling it on the basis to the consumer that we have strong trade legislation, it is going to mean higher prices when they go to buy their products.

I happen to have been a merchant for 20 years and I doubt seriously if the consumer is receiving any great windfall of lower prices because of the heavy imports coming into this country. Most merchants and most distributors, wholesalers, don't pass that savings on to the consumer. It just means they try to pick up some additional profit.

Mr. DAY. I think in your radio situation while it might be an unhappy fact for our industry, I am sure the consumers have gotten incredibly low prices over the years because of imports.

Mr. FULTON. It seems as if all of a sudden we are alone.

I want to thank you for your indulgence and staying with us so late and hope you will understand these hearings have been going on not only on trade but tax legislation since the first week in February, almost 5 days a week, and it is necessary for the committee members to perform other duties other than be at the committee. We are indeed grateful to you for your presentation today.

The committee will be adjourned until 10 o'clock tomorrow.

[The following was submitted for the record:]

STATEMENT OF SCIENTIFIC APPARATUS MAKERS ASSOCIATION

This statement is filed on behalf of the Scientific Apparatus Makers Association (SAMA), a voluntary, non-profit trade association counting among its membership more than 200 companies engaged in the manufacture and distribution of scientific laboratory research instruments and apparatus, reagent chemicals and diagnostic solutions, and industrial process control instrumentation. The membership of SAMA consists of many small companies as well as large and medium-sized companies, almost all of which have experienced in recent years substantial increases in export sales. The members of SAMA are, therefore, vitally concerned with the trade legislation that is the subject of these hearings.

The members of SAMA would like to take this opportunity to express their general support for the proposed Trade Reform Act of 1973, H.R. 6767. At the same time, SAMA would like to express its vehement opposition to trade legislation requiring the establishment of strict quotas on imports by application of mechanical formulas such as that contained in the legislation commonly referred to as the Burke-Hartke Bill. Restrictive legislation of this type would, in the opinion of SAMA, result in retaliatory measures by foreign governments with the result that SAMA members could no longer continue their thus far highly successful efforts to market increasing numbers of American-made instruments in foreign markets and produce a highly favorable surplus for the United States on instrument trade. SAMA also opposes legislation that would increase the tax burden for U.S. corporations manufacturing abroad so as to place such U.S. companies at a disadvantage in their efforts to compete in foreign markets.

SAMA'S EXPORTS PRODUCE A HIGHLY FAVORABLE BALANCE OF TRADE FOR THE UNITED STATES

In calendar 1973, the members of SAMA anticipate gross sales approximating two billion dollars. Of this total, approximately 22%, or 440 million dollars, will be accounted for by exports, and the recent growth trend in export sales has exceeded that of domestic sales.[1]

The instrument industry as a whole has developed export sales of instruments far exceeding instrument imports with an attendant highly favorable balance

[1] SAMA estimates that its members account for approximately 50–60% of the total U.S. industry production.

for the United States in its instrument trade. The last analysis by the Department of Commerce[2] shows that the following trade surpluses were produced by the U.S. instrument trade:

Year:	
1965	$449,000,000
1966	521,000,000
1967	590,000,000
1968	604,000,000

While overall figures comparable to those set forth immediately above have not been computed, there is nevertheless ample evidence that the U.S. instrument trade continues to produce a healthy surplus. For example, the figures for engineering and scientific instruments are as follows:

ENGINEERING AND SCIENTIFIC INSTRUMENTS

[Dollars in thousands]

Year	U.S. imports	U.S. exports	U.S. trade surplus
1970	$36,528	$177,964	$141,436
1971	37,166	174,235	137,069
1972	44,685	203,406	158,721

In the case of electrical measuring instruments, the figures are as follows:

ELECTRICAL MEASURING INSTRUMENTS

[Dollars in thousands]

Year	U.S. imports	U.S. exports	U.S. trade surplus
1970	$78,705	$264,941	$186,236
1971	68,265	226,350	158,085
1972	89,398	258,597	169,199

The U.S. instrument industry continues to lead the world in producing technological advances and these advances have largely been financed by investment of the industry's own funds—the instrument industry has the second highest ratio of company funds invested in research and development as compared to total sales. Thus, with accelerating efforts to improve the technological advantage of American made instruments occurring in concert with the economic benefits derived from devaluation of the dollar and a lessening of the unfair restrictions now imposed by many countries on American instrument exports which we hope will be achieved by negotiations to be conducted under the legislation to be approved by this committee, we, in the instrument industry, are confident that the rate of expansion in U.S. instrument trade surpluses can be improved.

SAMA'S POSITION

SAMA's position in general support of H.R. 6767, The Trade Reform Act of 1973, is based on its firm conviction that it is to the economic benefit of the United States to enter into international negotiations for the purpose of attemping to secure a substantial reduction in the barriers that presently particularly burden the export trade of the United States. While SAMA recognizes that the bill would vest significant authority in the President, we believe that only the President can carry on effective negotiations and that he must be armed with extensive authority in order to be in a position to produce the most favorable results for the United States. Although the legislation being considered would permit the imposition of increased trade restrictions by the United States which might be followed by retaliatory restrictions against U.S. exports, we believe that there is sufficient appreciation throughout the world of the need for a lessening of the barriers to trade and of the disastrous consequences that would follow a trade

[2] Analysis and Trends of Scientific Instrument Exports, 1965–68; U.S. Department of Commerce, Business and Defense Services Administration, April 1969.

barrier war, that the negotiation to be undertaken pursuant to the legislation under consideration will result in agreements accomplishing a fair reduction of U.S. and foreign trade restrictions.

TITLE I

SAMA supports the provisions of H.R. 6767 that would provide the President with authority to raise or lower tariff duty levels and, after the Congress has had an opportunity to veto such Presidential proposals, modify provisions of U.S. law constituting non-tariff barriers.

However, SAMA believes that this title of the Bill is deficient in failing to provide for sufficient consultation with industry. Although the Bill would continue the requirement that the President hold hearings prior to conducting negotiations on tariff duty rates, there is no similar provision with regard to negotiations on non-tariff barriers. Moreover, there is no provision regarding continued consultation with industry by U.S. negotiators during the course of negotiations. The United States is unique in its isolation of trade negotiators from the expertise its own knowledgeable industry representatives could provide. The negotiators for almost all other countries maintain close liaison with their affected industry leaders while negotiations are taking place. We believe that the United States should follow the lead of other countries and establish mechanisms for close consultation between representatives of indutry and the U.S. trade negotiators during the actual negotiations. We believe that industry representatives can be very helpful to U.S. negotiators by providing them with data bearing on the likely effect of particular negotiating proposals.

SAMA is of the opinion that it is particularly important for government negotiators to consult with and maintain close liaison with industry representatives regarding non-tariff barriers. Industry representatives charged with maximizing export sales are in the best position to identify those foreign practices that unfairly inhibit U.S. exports and to evaluate just what is the dollars and cents effect of such practices. In the case of SAMA, the effect of national standards has already been identified as a mechanism for establishing particularly troublesome non-tariff barriers. For this reason, SAMA has mounted a substantial effort throughout the world to keep abreast of the standards activities that may affect instruments, and to assure that those international and national standards that are developed are compatible with U.S. products. We have also voiced our support for the International Voluntary Standards Cooperation Act and for U.S. conversion to the metric system of measurement. We believe that it is vitally important for the American negotiators to keep abreast of activities of American industry on the international standards front and also to keep industry advised of any negotiations under way with regard to the non-tariff barrier effect of particular national standards imposed by either the United States or any foreign country.

TITLE II

While firmly committed to a policy of lessening both U.S. and foreign trade barriers, SAMA recognizes that there is a need for some means of softening too severe an impact which may result from sharply increasing imports. SAMA, therefore, generally supports the proposals contained in Title II of H.R. 6767. However, SAMA does have some particular concerns with regard to the provisions of the Title.

First, SAMA believes that it is vitally important to have adjustment assistance available to companies as well as workers. Moreover, we feel that this should be the primary basis for responding to temporary dislocations occurring as a result of suddenly increasing imports in a particular segment of the economy. Also, we would urge that the assistance to be provided be specifically tailored to meet the needs of the particular situation. We believe that it would be a mistake to attempt to respond to the needs of workers dislocated by increasing imports through a generalized program of state unemployment compensation increased to meet specific Federal standards.

SAMA would also urge the Committee to expand the requirements for Presidential reporting under Section 202(b) of the Act. As presently written, that section requires the President to report to the Congress only in cases where he refuses to impose import restrictions after a finding by the Tariff Commission that a particular industry has been injured. SAMA firmly believes that the President should be required to give a full public report on whatever action he decides to take as a result of such a tariff Commission finding along with the reasons for such action.

Another part of this Title of particular concern to SAMA members is that which would permit the President to suspend the application of sections 806 and 807 of the tariff schedules upon a finding of injury from imports by the Tariff Commission. Sections 806 and 807 of the tariff schedule provide that articles processed or assembled abroard from U.S. components or materials will be dutiable on return to the United States only on the value added by such overseas assembly or processing. Representatives of certain unions within the United States have long argued that such products should be dutiable on their full value when shipped into the United States. Conversely, they have argued that the favorable tariff treatment now available under sections 806 and 807 has resulted in the exportation of assembly and processing jobs from the United States.

In the case of the instrument industry, continuation of the favorable tariff treatment available under sections 806 and 807 is essential to maintaining the high level of employment on components made in the U.S. and used in assembling instruments abroad for shipment to both the U.S. and many foreign markets. If the favorable tariff treatment available under sections 806 and 807 were eliminated, such assembly operations and their jobs would not be returned to the United States. Rather, U.S. companies would then be placed at a severe disadvantage in competing with foreign manufacturers using both foreign manufactured components and foreign assembly to sell in the U.S. as well as foreign markets. As a result, there would be less utilization of U.S.-made component and the overall result would be a reduction in U.S. employment, not an increase. We therefore suggest that elimination of the favorable duty treatment available under sections 806 and 807 of the tariff schedules not be included among the remedies the President is authorized to use as a means of providing relief from increased imports.

TITLE III

SAMA is in general agreement with the proposals contained on Title III of H.R. 6767.

TITLE IV

SAMA recognizes that the authority requested by the President in Title IV of H.R. 6767 which would authorize him to impose an import surcharge or other import restrictions in times of a serious balance of payments deficit or to reduce restrictions in times of a balance of payments surplus and to reduce import restrictions as a means of restraining inflation in the U.S. economy would be very effective tools in managing the economy. However, such a delegation of authority would be of unprecedented magnitude, and we would urge that appropriate safeguards be placed on the exercise of such authority. In particular, we would urge that concurrently with action under the aforementioned provisions the President be required to issue a report to the Congress stating in full his reasons for taking such action. The Congress should then be authorized to veto such action at any time if it elects to do so within a reasonable period of time, such as 90 days. Moreover, we believe immediately after taking such action, the President should be required to hold public hearings and, after receiving the evidence in such hearings, issue a report subject to Congressional oversight continuing to justify such action or making such adjustments as may be required on the basis of the evidence adduced in such public hearings.

TITLE V

SAMA supports Title V which would authorize the President to extend most favored nation treatment to countries not presently receiving such tariff treatment. The instrument industry has identified the Eastern bloc countries and China as one of the largest untapped markets for its products. However, selling to these countries is now made extremely difficult by controls imposed by the United States as well as restrictions imposed by the importing countries. Although U.S. export controls have been significantly relaxed by the Department of Commerce pursuant to provisions of the Equal Export Opportunity Act passed last year, marketing in the Eastern bloc and China remains difficult. SAMA believes that extending most favored nation treatment to the Soviet Union, other Eastern bloc countries and China would be strongly in the interest of the United States provided that it receives in exchange for such treatment a relaxation of many of the barriers currently imposed by these countries to trade with the United States. SAMA believes that it is vitally important for the President to have such bargaining authority.

TITLE VI

SAMA presently has no comment respecting Title VI of H.R. 6767 which would authorize the granting of general preferences to developing countries.

TAX PROPOSALS

SAMA opposes any changes in the existing tax treatment of the earnings of foreign subsidiaries. SAMA members have found that the establishment of overseas manufacturing subsidiaries has substantially increased the export of its U.S.-made products. In all cases where a foreign manufacturing subsidiary has been established or acquired by a SAMA member, U.S. employment has continued to rise. In no case has such action worked to reduce employment in the U.S.

In no case has a SAMA member established or acquired an overseas manufacturing facility primarily for purposes of escaping U.S. taxes. Rather, the decision to establish such a manufacturing facility is based almost entirely on considerations related to increasing the potential for making sales in foreign markets. Tax treatment of host countries is only one of the considerations going into exactly where to locate such a needed facility. Denying American companies the benefit of tax savings available to other producers in such foreign countries would do nothing to benefit the United States economy and on the contrary would place American producers at a competitive disadvantage in maintaining their foreign markets for both United States produced goods and goods produced overseas.

MAGNAVOX CO.,
Arlington, Va., June 14, 1973.

Mr. WILBUR D. MILLS,
Chairman, Committee on Ways and Means,
House of Represenatives, Washington, D.C.

DEAR MR. MILLS: In following your hearings on the President's Trade Reform Act of 1973, one is immediately aware of the emotion and pressures from each witness. How you prevent being caught in the cross-fire of such extremes is really beyond comprehension. Regardless, you are most certainly giving patient consideration to a number of significant endeavors, the results of which will determine America's economic foreign policy for years to come, and we fervently pray will produce a strengthened, enforceable countervailing duty law—the lack of which has contributed to the chaos within the electronic industry.

The Magnavox Company adamantly believes that the American worker is our best customer and that his well-being is the backbone of our economy. We resisted, therefore, the temptation to take full advantage of the Tariff Statutes 806 and 807 and move our television facilities and production off-shore as the majority of our competitors have done.

Although our company had an increase in sales in 1972, a look at our profit picture in comparison to our major off-shore competitors clearly indicates that perhaps we had been too compassionate. Compassionate with our employees we may be; our investors, however, demand more and, in their behalf, we depended on the laws of our nation for fairness in equalizing the bounties and grants afforded our competitors off-shore. To no avail, there has been no enforcement of the countervailing duty laws to-date nor do we have any right to judicial review.

The President of The Magnavox Company has reiterated time and time again that the drastically low wages of those off-shore countries that our industry is moving to is of little consequence. The sting hurts, however, when these low wages are coupled with inducements in the form of subsidies, bounties and grants.

As one of the most respected companies in the nation, we have pride in our product and we do not want the stigma of a foreign label. You, on the Ways & Means Committee, are our last resort. We implore you, therefore, to give your utmost consideration to the attached recommendations for countervailing duty law improvement.

Most sincerely,

FRANK D. LANGSTROTH,
Vice President, Legislative Affairs.

BACKGROUND PAPER ON COUNTERVAILING DUTIES

THE COUNTERVAILING DUTY LAW

Section 303 of the Tariff Act of 1930 requires the Secretary of the Treasury to impose an additional duty on imports of dutiable merchandise equal to the amount of any "bounty or grant" (i.e., subsidy) paid or bestowed by a foreign government or foreign entity on the production or exportation of the merchandise concerned. This law recognizes the fact that export-oriented subsidies distort the natural pattern of international trade and that such subsidies constitute an unfair trade practice. Consequently, the law was designed to protect domestic manufacturers (and indirectly, their employees) from the artificial competitive advantage enjoyed by subsidized foreign products in the U.S. market.

Since the Countervailing Duty Law was first enacted in 1897, Congress has repeatedly sought to strengthen its effectiveness. As recently as 1972 the Senate passed an amendment to the Tariff Act giving domestic manufacturers the right to judicial review in countervailing duty cases. The Finance Committee Report (No. 92–1221) explained that the purpose of the amendment was to "secure administration of the law in keeping with the intent of Congress reflected in the broad, explicit and mandatory terms used in section 303." The amendment was accepted by the House-Senate conferees, but was not brought to a vote in the House in an effort to accommodate the Secretary of the Treasury who urged that the timing was wrong and that such an amendment, *which Treasury publicly supported*, should be brought up in the context of general trade legislation. In a colloquy on the House floor Chairman Mills explained: "I can assure the gentlemen I am for this . . . In connection with any trade legislation, this is a matter we would have to include." Cong. Rec. (Oct. 18, 1972) at p. H. 10309.

ENFORCEMENT HISTORY

Since 1897, approximately 200 countervailing duty cases have been processed. About 78 of these cases resulted in the imposition of countervailing duties. Surprisingly, there has never been a countervailing duty imposed on Japanese imports, even though there have been many governmental studies and reports showing that Japan has been (and continues to be) among the foremost users of the export-related subsidy. Yet Japan in the post-war period has grown to be the second largest economy in the free world, while the United States trade deficit with Japan has grown to be a whopping $4.3 billion!

Enforcement of this provision, particularly since World War II, has been woefully lax, although there was a flurry of affirmative actions around 1968. During the Kennedy Round negotiations, for example, there was a conscious policy of deemphasizing countervailing duty enforcement for fear of offending any country which was a party to those negotiations. Thus, rather than impose a countervailing duty against imports of subsidized Canadian cars, the United States extending duty-free treatment to such cars under the U.S.-Canadian Auto Agreement of 1965, thereby making the Countervailing Duty Law inapplicable (countervailing duties are only applicable to *dutiable* products.) The result was a marked reversal of the U.S. automobile trade balance with Canada.

It can be fairly assumed that a new round of trade negotiations would again result in Executive Branch "suspension" of this statute—unless Congress takes steps to insure administrative compliance with the law.

There have been frequent instances of arbitrary or otherwise unconscionable administrative action (or inaction) under this law. For example, Treasury issued a countervailing duty order several months ago involving imports of Michelin tires from Canada. The public notice stated that if Michelin availed itself of the *accelerated depreciation* provisions to which it was entitled under Canadian law, such benefits would constitute a "bounty or grant" within the meaning of section 303. However, a provision of Japanese law granting *accelerated depreciation* for export production assets was brought to the attention of the Treasury Department in 1970 in a formal complaint filed by the Zenith Radio Corporation. Japanese exporters of television sets and other consumer electronic products are still receiving the benefits of that provision and yet Treasury has taken no action.

The Zenith case represents an outrageous disregard of the Congressional mandate. Zenith first filed its countervailing duty complaint in April 1970. Incorporated into that complaint was a comprehensive report from the American Embassy in Tokyo detailing an extensive list of Japanese export subsidy practices.

For approximately two years Treasury failed to conduct even a cursory investigation—while thousands of American workers in the electronics industry lost their jobs as domestic production rapidly declined. At the same time, our balance of trade with Japan went from bad to worse.

In the Spring of 1972, The Magnavox Company and several U.S. electronic parts producers also filed a countervailing duty complaint Japanese subsidy practices. Treasury finally initiated an investigation, but that investigation has since languished and no action has been taken to offset the subsidy element contained in imports of Japanese television sets.

The Zenith case, and others like it, belie the following statement made in the President's recent "State of the World" report: "Enforcement of antidumping and countervailing duty laws, which protect American workers and industry from injury due to unfair import competition, has improved markedly." (p. 168)

CRITIQUE OF ADMINISTRATION'S PROPOSED AMENDMENTS TO COUNTERVAILING DUTY LAW

Section 330 of the Administration's trade bill (H.R. 6767) would amend the Countervailing Duty Law to permit the Secretary to refrain from imposing countervailing duties whenever he determines that its imposition "would result, or be likely to result in significant detriment to the economic interests of the United States." As a practical matter, this would make the administration of this law entirely discretionary. Although the Treasury Department, as previously noted, publicly stated that it was in favor of extending the right for judicial rule in such cases to domestic manufacturers, no such provision is included in this bill, and indeed judicial review would be meaningless given the fact that the Administration's proposal would make the application of countervailing duties discretionary.

1. *Discretionary authority.*— We live in a country that places great value on the rule of law as opposed to the rule of men. For that reason alone, discretionary authority in the hands of one man to provide a remedy for victims of this form of unfair import competition is inappropriate.

Furthermore, it is axiomatic that in order for business to flourish there must be relative certainly in the laws governing commercial transactions. Treasury's proposal would undermine that principle.

In addition, the Constitution vests Congress with plenary power to regulate foreign commerce. Congress has exercised that power to neutralize the artificial competitive advantage enjoyed by bounty-fed imports in the United States markets. The Constitutional obligation of the Executive Branch is to take care that the laws of the land be faithfully executed. Treasury is, in effect, asking Congress to abdicate its Constitutional power and let the Executive Branch decide when countervailing duties should be imposed.

If Treasury can identify specific situations in which the application of countervailing duties would not be appropriate (such as the case where the imports concerned are under quota), those situations can be dealt with in clear legislative language. A virtually unfetered grant of discretionary authority to the Secretary is unnecessary and undesirable.

2. *Judicial review for complainants.*—The Administration's trade bill does not provide the right of judicial review for domestic complainants in countervailing duty cases. The mandatory nature of the statute and its remedial effect are largely illusory in the absence of such a right if Treasury chooses to disregard the Congressional mandate as it has done in the past. Accordingly, the same right of judicial review should be extended to domestic complainants as is presently enjoyed by importers. Domestic producers have the right to challenge in court the customs treatment of compeling imports under other provisions of the law. There is no reason why that same right should not apply in countervailing duty cases.

3. *Time limit.*—The bill would require the Secretary to decide a countervailing duty case within 12 months of its filing. While this is generally commendable, it should be noted that this time limit would only apply to complaints filed after the effective date of the provision. Thus, countervailing duty cases which has been pending in Treasury for several years would have to be refiled and the matter prolonged another 12 months. This would merely exacerbate an already unconscionable situation for which Treasury is responsible.

4. *Duty-free article.*—The bill would extend the applicability of countervailing duties to duty-free articles if the Tariff Commission makes an injury finding with respect to a domestic industry. This is a salutary provision.

5. *Imports under quota.*—Apart from general discretionary authority, the Secretary could refrain from imposing countervailing duties on products which are under quota restrictions. This is a worthwhile provision to avoid the possibility of "over-kill".

6. *Indirect taxes.*—Chapter 2 of Title III of the trade bill would amend the Antidumping Act with regard to the export rebate of indirect taxes in such a was as to achieve a *defactor* narrowing of the Countervailing Duty Law. In essence, Treasury's section-by-section analysis of its proposed antidumping amendments attempts to create legislative history justifying the non-imposition of countervailing duties with respect to the export rebate on indirect taxes. Yet the United States has been arguing in the GATT since 1968 that in certain circumstances the rebate of such taxes on export sales has a subsidy effect which can be countervailed. Indeed, many government officials responsible for trade policy matters have publicly acknowledged that in cases where there is an increase in the indirect tax rate of a foreign country, the full export rebate of the increased tax usually constitutes an export subsidy. The reason is that the increased taxes on goods sold for domestic consumption are typically absorbed by the manufacturer, rather than passed forward to the consumer. Therefore, it becomes one of the manufacturer's costs. However, the manufacturer is relieved of this additional cost on export sales by virtue of the full rebate and thus it is more advantageous for him to export.

It should be made clear in the bill that countervailing duties apply in such a situation.

RELATIONSHIP BETWEEN COUNTERVAILING DUTIES AND THE "RUNAWAY PLANT" PROBLEM

The effective enforcement of the Countervailing Duty Law would go a long way towards solving the "runaway plant" problem for the simple reason that in many cases U.S. firms locate manufacturing facilities abroad to maintain their competitiveness in the U.S. market against subsidized foreign imports. Since they are aware of the discouraging enforcement history of the Countervailing Duty Law, they feel they have no choice but to seek the benefits of corresponding incentives offered by other countries. More effective enforcement of the Countervailing Duty Law, therefore, would in many cases remove this reason for foreign direct investment.

To illustrate this point, one American consumer electronics company, which operates an assembly plant in Mexico, has publicly stated that it would wind up its Mexican operation if the Treasury Department took meaningful action to offset the subsidy element in the products of its foreign competitors sold in the U.S. market. In short, this company's decision to set up a Mexican assembly operation was purely defensive.

COUNTERVAILING DUTIES AND "PROTECTIONISM"

In light of the poor enforcement record under the existing law, it is hardly surprising that a number of American industries and their workers have turned to the Congress for import quotas and other kinds of restrictions. Their frustrations at the lack of fair and timely enforcement of the Countervailing Duty Law is fully understandable. Congressional action to insure proper enforcement of this law would alleviate many of the "protectionist pressures" that may arise in the future.

COUNTERVAILING DUTIES AND U.S. TRADE POLICY

The current realities of international economic relationships bring into sharp focus the fundamental trade policy issue underlying the Countervailing Duty Law. In order to compete effectively in international markets there are essentially three options:

1. To emulate foreign systems of active governmental intervention in the marketplace, including matching foreign export subsidy programs;
2. To raise extensive import barriers; or
3. To act to preserve as much as possible the conditions of free competition in world trade.

It seems self-evident that the United States should not embark on an extensive program of export subsidization. Taxpayers' dollars are needed for many more important matters. Similarly, the raising of broad import barriers would, over the long run, be detrimental to U.S. economic interests and could lead to

political instability in the world. The last option—of strengthening the legal instruments designed to offset foreign export subsidies and other unfair methods of competition—is clearly the most sensible policy for the United States to follow.

A BILL To amend the Tariff Act of 1930 to expedite countervailing duty investigations, to apply countervailing duties to duty-free merchandise causing injury to domestic industry, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is amended to read as follows:

"SEC. 303. COUNTERVALLING DUTIES.

"(a) *General Rule.*—Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise in the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed, except as otherwise provided in this section.

"(b) *Initiation of Investigation.*—Upon his own motion, or upon the filing of a petition by a trade association, firm, certified or recognized union, or other representative of a domestic industry engaged in the production of an article like or directly competitive with the imported article specified in the petition, the Secretary of the Treasury (hereinafter called the 'Secretary') shall promptly initiate an investigation.

"(c) *Suspension of Liquidation.*—Whenever, during the course of an investigation, the Secretary has reason to believe or suspect that a bounty or grant is being paid or bestowed with respect to any imported article or merchandise under investigation, he shall forthwith publish notice of that fact in the Federal Register and shall authorize, under such regulations as he may prescribe, the suspension of liquidation as to such article or merchandise entered, or withdrawn from warehouse, for consumption, after the date of such notice, until the Secretary has made public a determination as provided in subsection (d), or, in the case of any article or merchandise which is free of duty, until the Tariff Commission has made public a determination as provided in subsection (f), with respect to such article or merchandise.

"(d) *Determination; Time Limit.*—Within 12 months after the initiation of the investigation, the Secretary shall determine whether a bounty or grant is being paid or bestowed and shall promptly publish such determination, whether in the affirmative or in the negative, in the Federal Register, with a statement of the reasons therefor. Within that time the Secretary shall also determine or estimate the net amount of any bounty or grant and shall publish the amount so determined or estimated.

"(e) *Assessment and Collection.*—(1) The additional duty provided for in subsection (a) shall be assessed and collected on all articles or mechandise as to which the Secretary has made public an affirmative determination, entered, or withdrawn from warehouse, for consumption, after the date a notice of suspension of liquidation as to such articles or merchandise has been published, or, if no such notice has been published, after the date an affirmative determination under subsection (d) (2) has been published.

"(2) In the case of any imported article or merchandise which is free of duty, the additional duty provided for in subsection (a) shall only be assessed and collected as to such article or merchandise entered, or withdrawn from warehouse, for consumption, after the date a notice of suspension of liquidation has been published, if the Tariff Commission has published an affirmative determination as provided in subsection (f) with respect to such articles or merchandise.

"(3) The Secretary shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of the additional duties prescribed in this section.

"(4) The Secretary shall from time to time determine or estimate the net amount so determined or estimated.

"(f) *Duty Free Articles or Merchandise; Injury Determination.*—(1) Whenever the Secretary has published an affirmative determination under subsection (d) with respect to any article or merchandise which is free of duty, he shall promptly authorize the suspension of liquidation as to such article or merchandise, if he has not previously done so, and shall advise the United States Tariff Commission of his determination. The said Commission shall determine within 3 months thereafter, and after such investigation as it deems necessary, whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States. The Commission shall notify the Secretary of its determination and shall publish such determination in the Federal Register, with a statement of the reasons therefor. If the determination of the Commission is in the affirmative, the additional duties prescribed in this section shall be assessed and collected in accordance with subsection (e) (2).

"(2) The Tariff Commission shall make all rules and regulations as may be necessary to perform its functions under this section.

"(g) *Special Rule; Imported Articles Subject to Quantitative Limitation.*—No duty shall be imposed under this section with respect to any article which is subject to a quantitative limitation imposed by the United States on its importation, or subject to a quantitative limitation on its exportation to or importation into the United States imposed under an agreement to which the United States is a party, unless the Secretary determines, after seeking information and advice from such agencies as he may deem appropriate, that such quantitative limitation is not an adequate substitute for the imposition of a duty under this section.

"(h) *Definitions.*—For purposes of this section—

"(1) The term 'bounty or grant' means any incentive, preference, or other practice having the effect of reducing the cost or risk of manufacturing or producing any article or merchandise for export, or of exporting such article or merchandise; or of increasing the financial return attributable to any such activity.

"(2) The term 'preference' means—

"(A) the treatment of export business more favorably than domestic business, or

(B) the treatment of particular classes of manufacturers or producers, more than 10 percent of whose total output of the article or merchandise in question is exported, more favorably than other classes of manufacturers or producers."

(b) Section 516 of the Tariff Act of 1930 (19 U.S.C. 1516) is amended by redesignating subsection (g) as subsection (i) and, respectively, by amending subsection (f) and inserting a new subsection (g) to read as follows:

"(f) If the cause of action is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of the court decision, or, in the case of the additional duty described in section 303 of this Act, after the 180th day before the date of publication of the court decision (but in no case before the day after the date of publication of the Secretary's decision), shall be subject to appraisement, classification, and assessment of duty in accordance with the final judicial decision in the action, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision.

"(g) For purposes of this section the term 'duty' shall include the additional duty described in section 303 of this Act."

EXPLANATION

Apart from organizational and clarifying changes the bill would make a number of substantive changes in section 303 of the Tariff Act of 1930. Specifically, these amendments would:

(1) Extend countervailing duties to duty-free articles which cause or threaten to cause injury to a domestic industry. This extension was included in the proposed Trade Act of 1970 (H.R. 18970) as reported by the House Ways and Means Committee and the Senate Finance Committee.

(2) Specify that any representative of a domestic industry, including a recognized union, can file a petition for countervailing duty action. This approach is similar to that found in section 301(a)(1) of the Trade Expansion Act relating to escape clause cases.

(3) Require prompt initiation of investigaton upon the filing of a proper petition, or upon Treasury's own motion.

(4) Require a decision by Treasury within 12 months after the initiation of the investigation. This provision was included in the proposed Trade Act of 1970 (H.R. 18970) as reported by the Ways and Means Committee and the Finance Committee.

(5) Require suspension of liquidation if Treasury has reason to believe or suspect that the imported articles are bounty-fed. This provision is similar to the "withholding of appraisement" provision found in the Antidumping Act.[1]

(6) Require publication of affirmative and negative determinations by Treasury, and the Tariff Commission where injury is an element, with a statement of reasons therefor.

(7) Require countervailing duties to be imposed as of the date of Treasury's affirmative determination,[2] or, if liquidation has previously been suspended, as of the date of notice of such suspension.

(8) Require the Tariff Commission to determine within 3 months after Treasury's affirmative determination whether the bounty-fed imports injure or threaten to injure a domestic industry. If the Tariff Commission's determination is in the affirmative, countervailing duties will be imposed as of the date of the suspension of liquidation.

(9) Provide a special rule permitting Treasury to refrain from imposing countervailing duties where the offending imports are subject to quota restrictions. This provision was included in the proposed Trade Act of 1970, as reported by the Ways and Means Committee and the Finance Committee.

(10) Define "bounty or grant."

(11) Amend section 516 of the Tariff Act of 1930 (petitions by American manufacturers, producers, or wholesalers) to treat a countervailing duty in the same way as an ordinary duty for purposes of that section. This would give domestic producers the right to judicial review where Treasury fails to impose countervailing duties.

(12) Amend section 516(f) to require—in accordance with a court decision—the imposition of countervailing duties on the pertinent merchandise imported during a period beginning 180 days before the court decision. This is essentially the language agreed to by the House-Senate Conference on H.R. 9463 in October 1972. (See S. Rept. No. 92–1298 at p. 4.)

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[1] The proposed Trade Act of 1970 provided for suspension of liquidation only with respect to duty-free merchandise imported 30 days after Treasury's affirmative determination—while the injury question was being considered by the Tariff Commission.

[2] The proposed Trade Act of 1970 provided that countervailing duties be imposed on imports 30 days after Treasury's affirmative determination.

TESTIMONY
OF
MARK SHEPHERD, JR.
PRESIDENT
TEXAS INSTRUMENTS INCORPORATED

RE

THE TRADE REFORM ACT OF 1973

(HR. 6767)

TO

COMMITTEE ON WAYS & MEANS

U.S. HOUSE OF REPRESENTATIVES

MAY 15, 1973

SUMMARY OF TESTIMONY AND RECOMMENDATIONS

Texas Instruments supports the objective of the Trade Reform Act of 1973, (H.R. 6767), to provide legislation to help the United States negotiate for a more open world trading system that is guided by the principles of reciprocity and non-discrimination. TI believes that the maximum number of U.S. jobs will be provided along with the maximum positive contribution to the balance of payments through vigorous participation by U.S. companies in total world available markets -- including the operation of overseas plants where necessary. Examples are given of TI's experience (Pages 4-5)

KEYS TO WORLD COMPETITIVENESS (Page 6)

There are three all important keys to a strategy for penetrating world markets.

1. The value of market share that permits the opportunity for cost and price reduction as a result of "learning" experience.
2. The value of market growth.
3. The proper choice of priorities and the appropriate allocation of resources.

VALUE OF MARKET SHARE

A. Learning Curve (Pages 6-8)

A company that participates in a total world market has an inherent advantage over a company confined to building its production base on only a national market, because the former can maximize the "Learning Curve" principle. As accumulated volume is doubled, the cost (and therefore the opportunity for price reduction), is reduced by a fixed percentage. Examples are given of common industry products.

Additionally, cost advantage is achieved from accumulated volumes in related products through "shared experience". Examples are given of TI's "shared experience" in semiconductor products and pocket calculators, computers, etc.

B. Plant Location and Capacity (Pages 8-11)

The major criterion for locating overseas facilities has not been lower labor costs or tax

advantages. Plant location is determined primarily by the accessibility to markets and the resulting ability to maximize use of the "learning curve" principle. At the end of 1972, Texas Instruments had 21 overseas facilities. The location of 18 of these was primarily determined by the desire to penetrate the market in which they were placed.

The availability of lower labor costs and tax holidays were factors in locating only 3 of TI's 21 overseas plants. If TI had not taken this step, non-U.S. competitors would have stepped into the vacuum, thus increasing their production base, improving their learning curve costs and their penetration of U.S. markets. TI uses these plants to assemble the high technology silicon integrated circuit chips fabricated in the United States. They are then returned to the United States for assembly into calculators using other U.S.-manufactured parts. This approach has allowed TI to return the manufacture of calculators to the U.S. and, to a significant extent, has displaced non-U.S. competitors.

TI recommends against passing any trade or tax legislation that would force U.S. companies to operate at a disadvantage vis-a-vis non-U.S. competitors.

VALUE OF MARKET GROWTH (Page 12)

U.S. businesses need to participate in rapidly growing markets anywhere in the world.

Absence of the flexibility to locate abroad in the world market areas will make participation difficult if not impossible.

THE CHOICE OF PRIORITIES AND THE ALLOCATION OF RESOURCES (Page 13)

Managing diversion of resources from low-market-growth businesses in order to emphasize and foster high-market-growth businesses is vital to success. Because of the tendency to maintain the status quo, this shift of allocation is most difficult to accomplish. TI's system to prevent playing out the string by making only incremental improvements on old ideas is described.

TI questions the viability of domestic industries which can only survive behind trade barriers using resources that could better be deployed by industries able to compete in the world market place.

POSSIBLE ECONOMIC STRATEGY FOR THE UNITED STATES (Pages 13-14)

There is a parallel between a successful strategy for an international growth company and a successful economic strategy for the United States.

First, follow an aggressive pricing policy.

Second, focus on continuing cost reduction and productivity improvement.

Third, build on shared experience.

Fourth, keep capacity growing ahead of demand.

Finally, allocate resources selectively to the high growth sectors.

TI believes these steps will be more effective than Trade barriers and currency devaluations.

TRADE RELATIONS WITH COUNTRIES NOT ENJOYING MORE FAVORED NATION TARIFF TREATMENT (Pages 14-16)

The establishment of positive Trade relations between the U.S. and Russia and other Eastern Bloc countries holds out the opportunity for the reduction of world tensions. Concern is expressed over losing valuable leverage if our posture does not include basic protection for high technology companies who, for practical reasons, have no patent protection in these countries.

Having market share is the only way to be truly paid for technology. The only way to have market share in these countries is by being paid a continuing royalty, based on patent protection, on products they produce. To be paid once for technology is not enough -- this is tantamount to giving it away. The pay-off comes from share of the production. TI does not believe that Section 503 of Title V of the Trade Bill sufficiently comprehends this problem.

TI's other concern regards the maintenance of safeguards against supplying these countries with strategic products and technologies. Electronics technology represents one of the few areas where these countries have not achieved a parity with the United States.

96-006 O—73—pt. 10——15

Mr. Chairman and Members of the Committee:

My name is Mark Shepherd, Jr., President of Texas Instruments Incorporated, Dallas, Texas, an international manufacturing and service organization. Our activities and products range from Research at the structure of matter level, to Materials, electrical and electronic Components and Controls, Equipment and systems, and Services which employ these systems. At the end of 1972, we operated 39 plants in 17 countries; 18 located in the U. S. and 21 in other countries around the world.

This statement pertains to the Trade Reform Act of 1973, (H.R. 6767), and other legislation being considered by the Committee relating to foreign Trade and Tariff matters.

We support H.R. 6767 to the extent that its principal objective is to provide legislation to help the United States negotiate for a more open world trading system that is guided by the principles of reciprocity and non-discrimination. Texas Instruments would strongly recommend against the adoption of any legislation that would restrict our freedom to compete in world markets on an equal basis with our foreign competitors. We do not believe operations confined to the U.S. and "protected" by restrictive trade measures will provide the number of U.S. jobs or make the positive balance of payments contribution that is possible through vigorous participation in the total world available market -- including U.S. companies operating overseas plants where appropriate.

Texas Instruments strategic approach to serving world markets is through development of multinational marketing, engineering, and manufacturing operations. This strategy has proved successful when judged by these factors:

	10 Year Compound Growth Rate
Total TI Sales	15% per year
Export Sales	25% per year
U.S. Employment	9% per year
U.S. Employment Related to Export Sales	21% per year

This record has generated a favorable Balance of Payments of over one-half billion dollars to the United States during this period. TI's international strategy has provided 2,000 more jobs to U.S. workers by the end of 1972 than if we had relied on export sales only for international market penetration. This job count is based on parts sales to our overseas operations and on an estimate of job value of export sales that would be lost if we did not have local overseas operation.

The negative U.S. trade balance of over $6 billion in 1972 is convincing evidence of our need to adopt a strategy which will foster an aggressive approach toward international trade competition. The outstanding job of understanding and serving U.S. markets with high-quality, low cost products such as autos, cameras, and electronic consumer items by Japan, West Germany, and others has been a major contributor to our U.S. trade balance problem. In contrast, U.S. industry has too often identified markets of other countries as targets of opportunity and not as prime markets. Additionally, U.S. productivity increases have only marginally tracked inflation so that the U.S. has become less competitive in world markets.

Increasingly we hear that the U.S. should become more isolated economically from the import of goods from other nations. These thoughts run counter to the inevitable fact that, for the U.S. to retain its leadership position in world society, it must compete effectively throughout the world.

KEYS TO WORLD COMPETITIVENESS

TI has evolved from a small geophysical petroleum exploration contractor to a multiproduct, international manufacturing and services corporation. Based on our experience, we believe there are three all-important keys to a successful business strategy for penetration of world markets:

1. The value of market share which provides the opportunity for cost and price reductions.
2. The value of market growth.
3. The proper choice of priorities and the appropriate allocation of resources.

VALUE OF MARKET SHARE

A company that participates in a total world market has an inherent economic advantage over a company confined to building its production base on only a national market, because the former can maximize the "Learning Curve" principle.

A. The Learning Curve

The "learning curve" relates product unit price to total number of units produced. Prices decline at a predictable rate with accumulated volume.

As accumulated volume is doubled, the cost (and therefore the opportunity for price reduction) is reduced by some fixed percentage. An approximate 25% reduction - or what is called a 75% curve - is typical in many cases. Price curves for some common products are as shown:

• Semiconductor Integrated Circuits	75%
• Polystyrene	65%
• Primary Aluminum	79%
• Gas Ranges	72%
• Electric Power	80%

These regular price declines, as a function of cumulative units, occur in most industries when prices are measured in constant dollars. This requires, for survival, that individual company costs must come down a similar slope. In the example shown in Figure I, the current industry price is illustrated by the horizontal dashed line.

VALUE OF MARKET SHARE

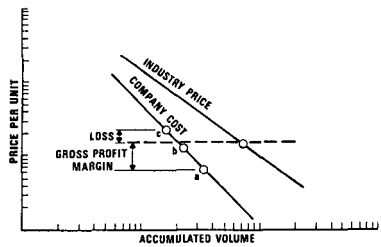

FIGURE I

Companies a, b, and c have different cost positions, depending on their accumulated volume. The value of market share to Company a (with excellent profit margins), is clear, while Company b is marginal, and Company c operates at a loss.

Cost reduction is not solely the province of the manufacturing function. It is the result of the collective productive improvements in the entire organization -- including management, engineering, marketing and administration.

Additionally, cost advantage is gained, not only from accumulated volume in the product produced, but also from accumulated volumes in related products through "shared experience." For example, TI with its semiconductor base, has a "shared experience" advantage in electronic products that have a high semiconductor content. This is a vital ingredient of our success in calculators, data terminals and computers. With multiple plant locations, capitalizing on

accumulative volume is quite complex. It involves shipping, duty, service to customers and other considerations, in addition to relative manufacturing costs.

Clearly, any trade or tax legislation that restricts U.S. companies from obtaining the largest possible international production base will place these companies at a disadvantage vis-a-vis non-U.S. competitors operating without such restrictions. American firms will become more vulnerable to non-U.S. competitors, even in our U.S. markets. U.S. jobs and trade balance will be jeopardized.

B. Plant Location and Capacity

We estimate that TI would lose well over 50% of its international markets to non-U.S. competitors if we attempted to supply these markets solely by exporting finished products from the U.S. There are two principal reasons for this.

First, a company must "be there" to compete successfully in the high technology markets of interest to TI. "Being there" takes on many forms. In addition to manufacturing facilities we "are there", also, with sophisticated marketing and engineering capabilities. For example, TI has placed computer input-output facilities in Europe which permit entering a customer's design requirements directly into our computer-aided design facility in Dallas, Texas. As we expand use of this approach, we create additional U.S. jobs as well as retain our high technology as opposed to selling it at a low price.

The second reason for "being there" is to overcome the many trade barriers that exist to the import of products into a country. Coupled with trade barriers is the psychological desire of any customer to do business with a company that is identified as a permanent part of his local society.

It can be seen that certain non-U.S. high technology companies are following this same

strategy to increase their market share. For example, a well known Japanese television set manufacturer has recently established a manufacturing operation in the U.S. Their strategy certainly was not one of seeking lower labor costs.

Our strategy for gaining world market share has benefited TI, our U.S. employees and the ultimate U.S. consumer of TI products. Our overseas operations depend upon our domestic facilities to supply them the high technology, critical parts for the products they assemble and test. Supply of these parts has been the principal factor contributing to the 25% per year growth of our exports.

The ultimate consumer also has been a beneficiary of TI's worldwide competitive strategy. Our success in improving our world market share and our constant emphasis on cost reduction programs, have resulted in continued gains in productivity. For example, in 1963, $1000.00 bought only 22 integrated circuit semiconductor products. Today, $1000.00 buys over 1000 units.

In summary to this point, the major criterion for locating overseas facilities has not been lower labor costs or tax advantages. The overriding consideration has been penetration of world markets and the resulting ability to maximize use of the "learning curve" principle.

The availability of lower labor costs and tax holidays were factors in locating only 3 of the 21 overseas plants mentioned earlier. In these countries, had we not taken this step, we believe non-U.S. competitors would have stepped into the vacuum, thus increasing their production base, improving their learning curve costs, and their penetration of U.S. markets. In two cases, prior to our entry, we had no patent recognition and thus no local capability to prevent foreign production. With our entry, we were able to obtain appropriate patent protection.

Japanese semiconductor firms have established offshore assembly operations in Taiwan and Southeast Asia. Also, European manufacturers are moving some of their operations to areas in other parts of Europe where lower cost labor is available. This is contrasted to their previous practice of importing labor from surplus areas.

Our offshore operations give TI an opportunity to supply lower cost electronic products to the U.S. consumer and other markets. The pocket calculator is a case in point. Reaching a mass market required a price of approximately $100.00. We met this criterion by applying our highest level of technology in the U.S. to fabricate the basic silicon integrated circuit chip. These chips are then packaged in our offshore facilities and returned to the U.S. for assembly into calculators using U.S. manufactured keyboards, displays, circuit boards, molded cases, and other components.

In addition, we are a major supplier to many other U.S. calculator manufacturers. Our successful strategy of U.S. high technology design coupled with world manufacturing capability has enabled them also to participate profitably in this market. This multinational approach has returned the manufacture of calculators to the U.S. and, to a significant extent, has displaced non-U.S. competitors.

If restrictive trade or tax legislation had prevented our using "offshore" facilities to achieve these overall market ojbectives, we sincerely believe the Japanese would have retained the U.S. pocket calculator market which would have increased imports and cost many U.S. jobs.

An important point in regard to manufacturing facilities is the fact that capacity must stay ahead of demand to hold market share. This is because, as prices decline with accumulated volume, units grow faster than dollars.

More units must be produced just to stay even as shown in Figure 2.

KEEP CAPACITY GROWING AHEAD OF DEMAND

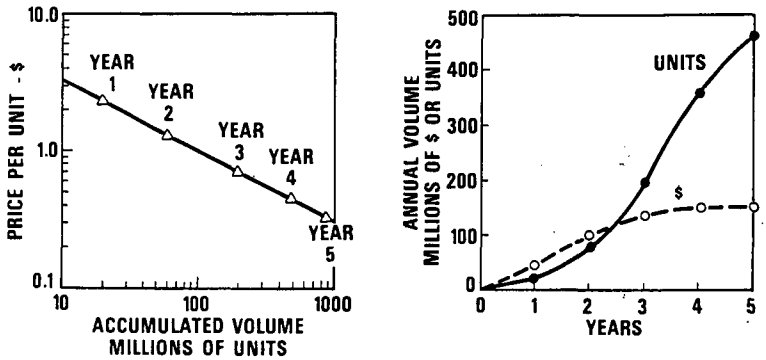

FIGURE 2

This forces the continuing replacement of old plant equipment with plant capacity that is more productive.

Businesses like TI demand continuing high capital expenditures if they are to succeed in maintaining world leadership. Therefore, U.S. tax laws regarding investment, depreciation, etc., should be maintained at least on a parity with those experienced by our non-U.S. competitors. For example, if the proposal to tax currently the undistributed earnings of a non-U.S. operating subsidiary were adopted, the United States would be the only country in the world to our knowledge, to adopt this policy -- and U.S. based companies would be at a serious disadvantage.

VALUE OF MARKET GROWTH

The second of our keys to world competitiveness is the value of market growth.

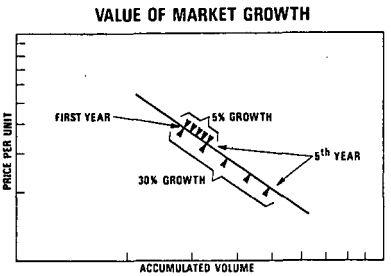

FIGURE 3

Figure 3 is an example showing five years of travel down a learning curve. The widely spaced arrows show a 30% growth rate; those narrowly spaced, a 5% growth rate. The point is, with proper strategy, significant cost advantages and profitable positions can be gained very quickly in high - growth markets. Share can be gained without taking it directly from competitors and stimulating their counteractions.

We've stressed the importance of both market growth and market share in the competitive process. The combined impact is even more significant. A business with low relative share in a low-growth market will generally have low earnings and poor cash flow. High-share, low-growth businesses will generate excess cash. The combination of high share and high growth rate should yield good profitability and may or may not be self-financing, depending on growth rate.

THE CHOICE OF PRIORITIES AND THE ALLOCATION OF RESOURCES

This brings us to the final key to competitiveness, the proper choice of priorities and the allocation of resources. Managing diversion of resources from low-market-growth businesses in order to emphasize and foster high-market-growth businesses is vital to success. Because of the tendency to maintain the status quo, this shift of resource allocation is most difficult to accomplish.

Texas Instruments has developed a system we call Objectives, Strategy, Tactics (OST) to insure that we utilize existing markets to develop new products in new markets. This prevents our playing out the string by making only incremental improvements on old ideas and forces us to new thinking.

We believe U.S. Trade and Tax policy should encourage development of high-market-growth businesses. American businesses which are successfully competing in world markets ought not to be deterred. We question the viability of domestic industries which can only survive behind protective trade barriers using resources that could better be deployed by industries able to compete in the world market place.

With proper federal assistance to ease any economic dislocation which might result from a change, the United States must allow the natural flow of people and capital from low market growth businesses to high market growth businesses.

Since multinational corporations tend to improve their growth by their international activities, it seems imprudent for this country to adopt trade and tax policies which deter them.

A POSSIBLE ECONOMIC STRATEGY FOR THE UNITED STATES

We believe a striking parallel exists between the right strategy for an international

growth company and the right economic strategy for the United States.

First, encourage an aggressive pricing policy to gain market share. Compare, for example, the advantages of price reductions with devaluation of the dollar for making U.S. products more competitive in world markets. Price reductions are selective as to products, timing and amounts. Devaluations are not. Devaluation makes necessary imports like oil cost more in dollars and causes price of volume-insensitive exports like foodstuffs to earn less. Competitive economic strategy can be executed far more effectively with aggressive productivity improvements and price reductions than by currency devaluation.

Second, focus on continuing cost reduction and productivity improvement. We contend that assistance to productivity must have its proper weighting in the social equation. The value of the learning curve and shared experience as the opportunity for cost reduction has been amply demonstrated. Participation in world markets provides the opportunity for maximum market share and accumulated volume.

Third, build on shared experience.

Fourth, keep capacity growing ahead of demand, and,

Finally, economic policy should encourage the shifting of resources to the high-market-growth sectors with appropriate retraining allowances for displaced workers.

We believe these steps, then, are the right strategy for the United States in international competition and will be more effective than trade barriers and currency devaluations.

TRADE RELATIONS WITH COUNTRIES NOT ENJOYING MOST-FAVORED NATION TARIFF TREATMENT

Mr. Chairman, we wish to conclude our statement by expressing our concern over some

aspects of Title V of the Trade Reform Act of 1973, which is before your committee. This pertains to Trade Relations with Countries Not Enjoying Most-Favored Nation Tariff Treatment such as Russia and other Eastern Bloc countries. We believe that the establishment of positive trade relations between the United States and these countries holds out the opportunity for the reduction of world tensions, a condition we all seek.

However, we will lose valuable leverage in any Trade negotiations with these countries if our posture does not include basic protection for high technology companies who, because of practical necessity at the time, did not file patent applications in the subject countries.

The only way to be truly paid for technology is by market share. Unfortunately, at this point in time, the only practical way to have market share in the Comecon countries is by being paid a continuing royalty, based on patent protection, on products they produce. To be paid once for technology (product development) is not enough -- this is tantamount to giving it away. The payoff comes from a share of the production.

We do not believe that Section 503 of Title V of the Trade Bill sufficiently comprehends this problem.

Our other concern regards the maintenance of safeguards against supplying these countries with strategic products and technologies.

Electronics technology represents one of the few areas where these countries have not achieved parity with the United States. It is our lead in electronics, and more especially in semiconductor technology, that is the key to maintaining our lead in space guidance, computers, communications, and a host of classified technologies.

We believe that restricting the flow of technologies of this type is more important to the long term welfare of the United States than the short term trade benefits that might otherwise be achieved.

Mr. Chairman, we appreciate the opportunity to present this statement to the Committee.

[Whereupon, at 6:05 p.m. the committee adjourned, to reconvene at 10 a.m., Thursday, May 31, 1973.]

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