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PRIVATE ADVISORY COMMITTEE REPORTS ON THE TOKYO ROUND OF MULTILATERAL TRADE NEGOTIATIONS

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*

SUBCOMMITTEE ON INTERNATIONAL TRADE
ABRAHAM RIBICOFF, *Chairman*

AUGUST 1979

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PRIVATE ADVISORY COMMITTEE REPORTS

Section 135 of the Trade Act of 1974 requires the private advisory committees for trade negotiations to report their evaluation of the Multilateral Trade Negotiations to the Congress. The report of the Advisory Committee for the Trade Negotiations has been separately published. The Committee notes that, in some cases, the report appearing below are preliminary reports which could be changed before they are approved by the relevant advisory committees. At the time of publication of this record, the Committee had not received reports from the labor advisory committees.

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON
20506

29 JUN 1979

Honorable Russell B. Long
Chairman
Senate Committee on Finance
Washington, D.C. 20510

Dear Chairman Long:

Pursuant to Section 135(e)(1) of the Trade Act of 1974, I am herewith transmitting the reports of the Industry Policy Advisory Committee and Industry Sector Advisory Committee on the Multilateral Trade Agreements submitted on June 19 to the Congress for approval. The reports are no longer classified and are available to the public.

The Labor Policy Advisory Committee and Labor Sector Advisory Committees have not yet prepared any reports, although we have requested them to do so. Agriculture committee reports and the ACTN reports of the Advisory Committee on Trade Negotiations are being transmitted separately.

Sincerely,

Robert S. Strauss

Robert S. Strauss

Enclosures

cc: Abraham Ribicoff

(V)

INDUSTRY POLICY ADVISORY COMMITTEE

The Industry Policy Advisory Committee is required by the Trade Act of 1974 (PL 93-618) to report to the President, to Congress and to the Special Representative for Trade Negotiations its collective opinion regarding MTN Agreements. This opinion shall advise whether the Agreements, taken as a whole, "promote the economic interests of the United States".

The following statement is a partial and preliminary report of the IPAC.

It covers:

First — Specific reports on Non-Tariff Codes

A. Agricultural Agreements
B. Aircraft
C. Counterfeiting
D. Customs Valuation
E. Framework
F. Government Procurement
G. Licensing, Import
H. Safeguards
I. Standards
J. Steel
K. Subsidies and Countervailing Duties

Second — This report does not deal with Other Non-tariff agreements or Tariffs as the Committee is not informed as to their provisions.

Third — The Committee points out that the overall acceptance of all Agreements is dependent on the balanced effect of the package.

Fourth — The Committee is particularly interested in the Agreements' implementing legislation, including agency creations or assignments and the prospective regulations that will derive from that legislation and the impact of such on U.S. companies operations. The Committee hopes to constructively influence such implementation.

Fifth — The Committee is also interested in an adequate institutionalization of agencies and programs of an on-going nature that will permit domestically and/or internationally

- A review process
- Amendments or changes
- A central entity to receive appeals for and to represent U.S. interests
- Maintain some degree of the consultative process domestically similar to IPAC/ISAC

so as to further optimum modernization and liberalization of trade rules in the interim from the effective date of this Agreement and a possible future round of MTN negotiations.

The Committee will render a more complete report shortly after revelation of the other provisions of the Agreement.

Robert W. Galvin
Industry Chairman
February 15, 1979

A. AGRICULTURAL AGREEMENTS

The Committee took note of the Agreements concluded with respect to agricultural trade. The Committee held the view that these agreements did not significantly affect its interests.

B. AIRCRAFT AGREEMENT

The Industry Policy Advisory Committee concludes that the proposed Aircraft Agreement promotes the economic interests of the U.S. and recommends its approval by Congress. (This advice is subject to the qualification that the proposed draft which IPAC reviewed, although presented as substantially complete, is still subject to final negotiation).

The adoption of the Aircraft Agreement will recognize not only the importance and uniqueness of trade in civil aircraft but ensure that U.S. private industry has a reasonable opportunity to compete with nationalized industries which have developed and will continue to develop competitive aircraft.

The Aircraft Agreement will be signed, it appears, by the EC, Japan, Canada, the United States, Sweden and Switzerland. The U.S. industry believes that the benefits and responsibilities accruing to the signatories should be restricted to the signatories. Countries not signatory to the Agreement should not, for example, obtain the zero U.S. tariff which will open the U.S. market to foreign aircraft. The aircraft tariff should, in addition, cover all aircraft parts. The present tariff codes which, to a considerable extent, use generic headings for equipment which might be used for a variety of purposes, must be altered equally and completely by all the signatories.

The Aircraft Agreement addresses many of the non-tariff measures of concern to the industry and takes the first major step towards bringing such non-tariff barriers (NTBs) under control on an international basis. The NTB provisions are complex and clearly open to a variety of interpretations as well as possible avoidance. The U.S. government, in cooperation with industry and labor must develop through enabling legislation, a method of monitoring and responding to questions resulting from actions under this Agreement. This does not imply that the other signatories are either less trustworthy or more scrupulous than the U.S., but it is a recognition that a few paragraphs drafted by negotiators necessarily seeking an acceptable compromise will not serve as a guide book for the future without much interpretation and consultation.

C. COUNTERFEITING

The Code on Commercial Counterfeiting was initiated by the U.S. in response to the world-wide awareness and interest on the part of consumers in certain internationally recognized and popular products.

This Code is well drawn and the IPAC endorses it and recommends its adoption to Congress.

The IPAC recommends that in the drafting of implementing legislation for this country the definitions of counterfeiting be made clear and unequivocal and not too broad for definite identification, so as to give predictability to the process of enforcement and avoid injury resulting from goods being tied up in long disputes.

D. CUSTOMS VALUATION

The Industry Policy Advisory Committee concludes that the proposed GATT Code on Customs Valuation promotes the economic interests of the U.S. and recommends its approval by Congress. (This advice is subject to the qualification that the proposed draft which IPAC reviewed, although presented as substantially complete, is still subject to final negotiation and the addition of various interpretative notes.)

The Industry Policy Advisory Committee finds that the Code will significantly reduce the trade restrictive effects of various customs valuation procedures currently employed around the world by providing greater uniformity and certainty. The Code should prove to be a definite advantage to U.S. exporters and importers.

The proposed Code internationalizes some of the most positive features of current U.S. law, as embodied in the Tariff Act of 1930, and while it will require certain changes in U.S. law, other countries will reportedly have to change their laws more extensively than the U.S. in order to implement the Code.

The IPAC has not attempted to review the Code from the standpoint of whether it provides equity and reciprocity within product sectors, feeling that such specific judgments should more appropriately come from the various ISACs.

~~The IPAC took~~ note of the following special features of the proposed Code:

1) The Code contains provisions allowing special and differential treatment for developing countries for a limited time, although it is not known how many developing countries will become signatories to the Code.

2) The Code does not affect application of Sections 806 and 807 of current U.S. law, governing special customs provisions which are of particular interest to border industries.

3) The Code contains favorable provisions for the timely settlement of disputes that might arise between signatories.

In addition, the proposed Code raises several potentially controversial issues, which are likely to be commented on by various ISACs. These include:

1) Elimination of the American Selling Price system of customs valuation. ASP would no longer be permitted under provisions of the Code and would presumably necessitate a change in current U.S. law.

2) The treatment of intangible assists for customs valuation purposes. This issue will reportedly be further dealt with in the negotiations and will be the subject of an additional interpretative note.

3) It is not known precisely which countries will sign the Code. Certain domestic industries have expressed a special interest in having developing countries as well as Canada sign the Code. These industries feel that much of the value of the Code is conditioned by which countries agree to accept its provisions.

Finally, the Code allows signatories to apply its provisions on either an F.O.B. or C.I.F. basis, in accordance with each country's current preferred practice.

E. GATT REFORM (FRAMEWORK)

The Industry Policy Advisory Committee concludes that the proposed Code on GATT Reform promotes the economic interests of the U.S. and recommends its approval by Congress. (This advice is subject to the qualification that the proposed draft which IPAC reviewed, although presented as substantially complete, is still subject to final negotiation.)

This Code contains specific provisions for consultation, dispute settlement and surveillance through the secretariat of GATT. These new provisions will give the secretariat more authority to police and enforce compliance.

IPAC believes it is important that the developing countries be brought more fully into the GATT system. The U.S already grants special and differential trade treatment to developing countries. The new GATT provisions recognize the desirability of this; but also spell out the obligations of developing countries to assume fuller GATT obligations as their economic development progresses. We believe this formal setting-forth of the rights and obligations of developing countries is a needed step in bringing developing countries into the trading system.

The abuse of trade measures to solve balance of payments problems should be exposed and limited. The proposed revisions should help accomplish this goal.

F. GOVERNMENT PROCUREMENT

Background An important U.S. negotiating objective of the Trade Act of 1974 (Sec. 104) is to obtain in developed countries equivalent competitive access for appropriate U.S. product sectors.

A major developed country barrier for significant U.S. product sectors has been discriminatory government purchasing in Europe and Japan. It was therefore desirable to negotiate a government procurement code that decreases discrimination.

The Proposed Code A code has been negotiated that, will provide substantial improvement in international participation in national government procurements.

The code requires a commitment by participating countries to open designated sectors of their governmental procurements to other participating countries. Effective procedures are prescribed to implement this commitment.

Governmental procurement policies and procedures are to be disclosed and foreign firms will receive "national", non-discriminatory, treatment from participating countries. Information about prospective purchases, criteria for selection among bidders and other information will be provided to allow foreign firms to compete effectively.

Information about bid awards will be made available to bidding firms. (The procedures for making known the successful bidders price to the losing bidders is not entirely satisfactory but the procedures can be adequate if the U.S. government takes a strong stand in supporting U.S. bidders.)

There are good procedures in the code for evaluating how well it works. Annual reviews are required and further negotiation is required every three years to broaden and improve the agreement.

The code that has been negotiated is a tight code, and the key issue is the extent to which it can be applied and the support it receives from the participating countries.

Coverage of the Code The coverage of the code involves the countries that sign, the government purchasing entities to be embraced, minimum value of contracts, and the type of products.

The code will not apply to procurements in specified special situations such as those involving national security considerations or tied-aid agreements. Services will generally not be included. There are special considerations for developing countries.

It is likely that purchases above the range of 150,000 SDR's will be covered although lower levels are being considered. It appears that not all government purchasing entities may be included, at least with some participating countries. Also some product types may be excluded.

U.S. Laws and Preferences Affected The Buy American laws and preferences and Small Business (Minority) Preferences would be affected by adoption of the code.

It would seem desirable that any reductions in U.S. preferences necessary to implement the code be limited to procurements above the threshold, i.e 150,000 SDR's. Although this would make administration by U.S. procuring agencies more complicated, it would be unwise to eliminate preferences on smaller contracts as a price for agreement. Smaller contracts have a major impact on U.S. Small Business which historically has not been very successful in competing for foreign business abroad. At the same time, eliminating preferences on small contracts would clearly bring increased competition from foreign firms for Small Business in this country.

Evaluation IPAC supports the proposed Government Procurement Code as a considerable improvement over existing foreign government procurement practices. Such a code is particularly important for U.S. business at this time because changed monetary values and relative inflation rates among most developed countries have made American products much more price competitive abroad than was the case a few years ago.

The adoption of this code should result in an improvement in U.S. balance of payments, and it should bring about a net increase in U.S. jobs.

The committee recommends the adoption of the code, limiting U.S. entity coverage to the extent necessary to match the entity coverage offered by the major European industrial nations and Japan. With the annual review required and a further negotiation every three years, coverage as well as other provisions of the code can be improved as experience is gained.

If the U.S. is to benefit from the adoption of the code, the U.S. government must take a strong and active part in making it work. While a Committee on Government Procurement made up of representatives of signators is provided in the code, enforcement must be on a government to government basis. Without strong backing from the U.S. government, a U.S. company would have no hope of redress in case of discrimination in a government procurement situation.

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G. IMPORT LICENSING

IPAC fully endorses the proposed Code on Import Licensing and considers it a constructive forward step in removing unnecessary Administrative impediments to international trade.

"Red Tape" and needless bureaucratic delays in securing the required licenses for importing goods into certain countries have become a genuine barrier to trade.

This is a separate problem from the issue of whether the need for licenses or quotas is justified. This proposed Code is not concerned with normal customs procedures, involved in declaring the nature and value of goods being imported, or paying the required duties.

The subject addressed by this Code is an administrative question. It has to do with the paper work and procedures involved in cases where national law specifies that a special license is needed for the import of goods. The reasons for the license requirement may vary. Such licenses may have to do with the foreign exchange situation, or with protection of local industry, or with technology, or with standards. Whatever the reason, local laws or regulation require a license prior to import.

Securing such a license sometimes becomes an administrative nightmare. The reason for this may be a deliberate governmental attempt to slow the flow of imports, or it may be the bureaucratic process at work.

Such licensing requirements and delays tend to be more frequent in developing countries than in developed countries. In the interest of easier trade between countries, such licensing procedures should be made as simple and easy as possible, if they cannot be eliminated altogether.

The proposed Code in Import Licensing is designed to reduce unnecessary administrative impediments to trade caused by excessive delays and paperwork in the securing of licenses. It is also designed to simplify and harmonize the procedures which must be followed in obtaining an import license.

In particular, it emphasizes the provisions to be followed in "Automatic import licensing", in which country law provides that applications should be freely granted. Such applications, if appropriate and complete, shall be approved immediately if administratively possible; and in any event no later than 10 days following application.

In the case of non-automatic import licensing, the Code provides for simplified, fair, and equitable procedures; it also requires governments to publish information concerning its administration of restrictions, licenses granted, and statistics about imports and quotas, including market shares by country of origin.

H. SAFEGUARDS

Subject to the reservation noted below, we support the Safeguards Code and recommend its approval by Congress.

The proposed Code on Safeguards is designed to supplement and improve on GATT Article XIX, which permits a country to apply temporary restrictions to imports under certain circumstances. Over the years numerous such temporary restrictions have been imposed, and in the case of other nations have often been applied selectively and without disclosure and sometimes unilaterally.

In over-simplified terms, the proposed language of this Code adopts the methods and procedures provided for in the U.S. Trade Act of 1974. The right to use voluntary export restraints (VER) and orderly marketing agreements (OMA) is provided, but disclosure of procedures is necessary.

In the draft there are a number of words and phrases in brackets. Many of these bracketed words and phrases are unsatisfactory, and it is our negotiators' intention to retain or substitute language of or consistent with the Trade Act of 1974.

Language of the following important chapters has not been settled:

Chapter IV. Nature of Safeguard action affecting selectivity

If selective action is used it should be sufficiently inclusive to be meaningful.

Chapter IVbis. Use of export restraints

Chapter VIII. Special benefits for LDC's

For labor intensive products no special provision for LDC's is warranted.

Incorporating the concepts of the Trade Act of 1974 in the Code would be a positive step for U.S. industry. In the future, temporary restrictions will be used by other nations. This Code helps assure that the ground rules will be observed and procedures disclosed.

From the legislative point of view there is great virtue in incorporating the familiar language of the Trade Act of 1974.

It is important that the provisions on Notification and Consultation (Chapter V) and Surveillance and Dispute Settlement (Chapter VI) be so implemented that in the formation of the committees sufficient weight is given to U.S. membership so that bloc votes such as the EC will not have a disproportionate role.

In Chapter I, Determination of Serious Injury should not be more strigent than in the Trade Act of 1974.

I. STANDARDS

The Industry Policy Advisory Committee concludes that the proposed Code on Technical Barriers to Trade (Standards) promotes the economic interests of the U.S. and recommends its approval by Congress.

The purpose of the draft Code is to discourage discriminatory manipulations of product standards, product testing, and product certification systems. The Code, properly applied and enforced, will improve fair access to markets for international traders.

The IPAC took note of all provisions of the Code, but in particular:

Signatories are obliged not to allow standards and certification systems to be prepared, adopted, or applied so as to create unnecessary obstacles to international trade.

National and regional certification systems are to grant access to certification on an equal basis to all suppliers.

Open procedures in the adoption of standards is encouraged. Standards and rules of certification are to be published. International standardization is encouraged.

The Code applies to new and revised standards and certification systems. No change is required of those existent, although mechanism for their modification, as required, is provided.

Central governments, state and local governments, and private sector organizations are subject to the provisions but only the central government is bound. "All reasonable means" are to be used to involve compliance by those not otherwise bound.

The IPAC wishes to emphasize the importance of the detailed provisions in the implementing legislation and regulation. The legislative intent and provisions should call for the maximum influence of the private sector on the determination of standards for products, test, and certification; avoidance of conflicting standards; and simplicity of the regulations.

J. OECD STEEL COMMITTEE

The IPAC supports the establishment of the international steel committee under the auspices of the Organization for Economic Cooperation and Development (OECD). We feel that the formation and prospective work of the OECD steel committee will promote the economic interests of the United States.

In 1978, the U.S. Government successfully negotiated an international steel arrangement within the OECD in response to crises conditions which had developed in the steel industries here and abroad. The arrangement created an international steel committee as a means for continuing consultations on steel problems throughout the world which have, or portend, trade disruptive effects. It also established principles and guidelines for governmental steel crisis trade actions. Particularly important is a commitment that such actions should not shift the burden of adjustment to other countres. Furthermore, the steel committee has the responsibility of developing guidelines with respect to other aspects of national government policies in the steel sector and reviewing these policies in light of the guidelines established by the steel committee.

In some important respects, the international steel arrangement fails to meet the conditions which the domestic steel industry felt were necessary and appropriate as embodied in its 1975 proposal to the Special Trade Representative's Office. This proposal advocated the establishment of a standing steel committee in the GATT and an international safeguard system for steel which would permit countries to obtain prompt and effective relief from market disruption by imports. Nevertheless, the steel industry fully supports the establishment of the OECD steel committee as a significant step toward resolution of the long-standing problems in steel trade between countries.

Since the steel committee only recently became operative, it is too early to judge how effectively it will deal with these problems. If the members come to grips with them quickly and constructively, the potential benefits will be great. If, on the other hand, the committee bogs down in endless debate or prolonged studies of an academic nature, the benefits -- if any -- will be minimal and the spirit and intent of the steel arrangement will be frustrated. The steel industry is optimistic that the latter will not happen, and has pledged to work closely and cooperatively with the government in achieving positive results from the arrangement.

K. SUBSIDIES AND COUNTERVAILING DUTIES

The IPAC endorses the Subsidies Code and proposes and recommends that Congress approve it for the long-term benefit of the American economy. We further recommend that Congress provide clear and precise implementing legislation to make the Code effective and practical to administer.

The U.S. has long been subjected to unfair competition from imports subsidized by foreign governments. From the start of the Tokyo Round the U.S. has placed strong emphasis on the negotiation of an agreement to provide greater international discipline over the use of subsidies.

A major breakthrough has been achieved with the successful negotiation of the complex NTB Code on Subsidies and Countervailing Duties. We applaud the work of the STR in devleoping a Code which (a) considerably strengthens the rules on the use of subsidies, (b) provides much improved transparency concerning subsidy practices; and (c) provides an effective consultative and dispute settlement process.

The Code tightens the existing rules on an export subsidy. There is a flat prohibition on the use of such subsidies on industrial and primary mineral products and a prohibition on their use for other primary products where the subsidy results in displacement of nonsubsidized exports or material price undercutting. In addition, the code introduces for the first time (a) some effective discipline on subsidies by LDCs and (b) treatment of domestic subsidies in a comprehensive manner (including a provision for redress where such subsidies cause trade problems).

This is a positive and forward looking code covering both primary and non-primary products. It is an important "first step" towards providing a framework in which to test and develop more fair and equitable trading practices. It should be possible to begin to eliminate the unfair competitive advantage of subsidized imports.

NOTE:

The members of IPAC note that approval of the Code by Congress does not require any change in the U.S. laws governing DISC. The IPAC strongly recommends that Congress retain DISC as a proven and necessary incentive for continued strong growth of American exports for a healthy economy.

U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON FOOD AND KINDRED PRODUCTS FOR MULTILATERAL TRADE NEGOTIATIONS (ISAC #1)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 19, 1979

Richard Lyng

Chairman, ISAC #1

SUMMARY

Members of ISAC #1 have appreciated the opportunity to participate in this program. The ISAC supports this program's objectives and the continuation of a private sector advisory scheme. Further, members of this ISAC appreciate the cooperation and assistance provided by the staff of both the Department of Commerce and the Office of the Special Trade Representative.

It is unfortunate, however, that at the level at which decisions regarding products were made, policy makers seemed with notable exceptions to pay very little attention to advice provided by this industrial sector. The ISAC recognizes that there were various reasons that advice was neither followed nor properly channeled. In any case, some key decisions were made which ignored industry input. The ISAC would have appreciated an explanation as to why actions were taken which conflicted with industry advice. It is the members' view that notification of the Administration's decisions and rationale should have been made available when these decisions conflicted with industry advice, and at a time prior to negotiating the U.S. offer.

In both areas of the negotiations, codes and tariffs, the Administration further opened the already accessible U.S. market for many of the products of this sector, but obtained

SUMMARY

only token foreign concessions in certain competitive product areas. It is possible that the codes may be implemented in a manner which may bring opportunities for U.S. agricultural exports in the distant future. This is, nevertheless, very uncertain when viewed in relation to the expanded opportunities for foreign exports to the U.S. market. It is unfortunate that the U.S. negotiating team had to settle on such a disappointing package.

Although the Food and Kindred Products Industry Sector Advisory Committee is far from satisfied with the Tokyo Round of Multilateral Trade Negotiations we do commend Ambassador Dent and Ambassador Strauss and their staffs for their extremely hard work at a most difficult assignment.

2.B. COMMERCIAL COUNTERFEITING

The Committee has considered the issue of commercial counterfeiting, and finds the code generally desirable. The ISAC believes the matters covered by the code are of interest to members of this sector with branded goods. A strong interest was expressed that a provision for expropriated property-trademark is denied to the expropriating country.

2.C. CUSTOMS VALUATION

ISAC #1 in principle supports the draft Customs Valuation code. The recommendations and observations of the Food and Kindred Product sector for improving this code are as follows:

1) Reference Article 8, part 6 - Inclusion of intangible assists as stated, for dutiable value is unrealistic. From an administrative standpoint it is highly unlikely that uniform accounting standards could be established to effectively cost these items into the price of the imported products. They should be removed from mandatory requirements of the code. Further, it appears that such provision would not encourage U.S. exportation of technology, hampering both U.S. companies and beneficiary countries, particularly LDC's.

2) With regard to wine gallon/proof gallon, the distilled spirits industry is divided with the following views:

The Distilled Spirits Council of the United States, Inc., representing the U S. distilled spirits industry, submits the following statement for the final report of ISAC #1.

Most domestic distillers, but not all, oppose changing the wine-gallon method of tax assessment. There is a significant minority view on this issue. A change in the wine-gallon method would increase imports and aggravate the existing unfavorable trade deficit in spirits, which has quadrupled

2.C. CUSTOMS VALUATION

during the past 20 years until it currently exceeds 635 million dollars. It should be noted that all EEC countries charge a higher tariff on U.S. spirits imported in bottles than they do on bulk imports. The difference for Bourbon in the United Kingdom is 21¢ per proof gallon; in Germany it is 32¢.

Meanwhile, sales of U.S. Bourbon whiskey have declined. Imported whiskey accounts for nearly 47 percent of whiskey sales in the United States; imported distilled spirits account for over 28 percent of the U.S. market as a whole.

Changing the wine-gallon method would result in a substantial loss of jobs in domestic bottling plants and related industries and would cause a 110 million dollar reduction in Federal revenues, a reduction which can be expected to increase to 160 million dollars per year within five years.

Because of other U.S. tax provisions relating to imports, U.S. distillers would be placed at a competitive disadvantage if the wine-gallon method were changed. Imported bottled goods can be imported directly by a wholesaler, and payment of the $10.50 per gallon Federal excise tax can be deferred until after the goods are sold to a retailer. Taxes on domestic spirits, however, must be paid by the distiller when

2.C. CUSTOMS VALUATION

they are sold to a wholesaler. Since the tax ($21.67 per case of fifths at 86 proof) amounts to 64 percent of the value of shipments by domestic distillers, the privilege enjoyed by foreign imports of delaying payment of tax until goods are withdrawn from customs bond for sale to retailers gives them a significant cost advantage -- amounting to about 38¢ per case.

Foreign producers also need not pay the 30¢ per proof gallon rectification tax which domestic producers of blended products must pay. Since all Canadian and nearly all Scotch is blended, this is a significant advantage enjoyed by imports, amounting to 62¢ per case of fifths at 86 proof.

The combined advantage over U.S. spirits is $1.00 per case, which should be compensated for if the wine-gallon method is to be changed. In the event of a change, the following concessions to U.S. producers thus are recommended:

I. Extension of Tax Deferral Period

Extend the deferral period for payment of tax on distilled spirits withdrawn from domestic distilled spirits plants and plants of producers of distilled spirits in Puerto Rico and the Virgin Islands for an additional period of 30 days.

2.C. CUSTOMS VALUATION

II. All In Bond

All operations at distilled spirits plants (production, storage, bottling) would be conducted under bond, including the right to transfer spirits to other bonded premises.

II.A. Repeal of Rectification Tax

Repeal is recommended only if all-in-bond system (Item II above) is adopted.

III. Extension of All-In-Bond Concept to Wholesale Level

Within one year of extension of the tax deferral period at distilled spirits plants and plants of producers of distilled spirits in Puerto Rico and the Virgin Islands, extend the point of tax payment of distilled spirits shipped in bond to wholesalers (including Control States) who have chosen to bond their facilities and have otherwise complied with relevant government requirements.

IV. Reform of Federal Alcohol Administration Act

A violation of provisions of Section 5 of the Act relating to trade practices may be prosecuted as a criminal offense under Section 7 of the Act. Most of these "violations" would at the most be subject to civil sanctions if any product other than beverage alcohol were involved. The Act should be amended to make such violations civil only, while retaining

2.C. CUSTOMS VALUATION

criminal penalties for such activities as engaging in business without the required permit.

V. Designation of Bourbon as a Distinctive American Product

A commitment should be made by the government to support industry efforts with the EEC and other foreign government representatives to obtain recognition of Bourbon whiskey as a distinctive American product.

M. Jacqueline McCurdy, Joseph E. Seagram & Sons, Inc. submits the following statement for inclusion in the final report to SAC #1.

"Joseph E. Seagram and Sons, Inc., Hiram Walker & Sons, Inc., Schenley Industries, Inc., Somerset Importers, Ltd., four of the largest domestic distillers and Monsieur Henri, Inc., Schieffelin and Company (all members of the Distilled Spirits Council of the United States) and many other U.S. importers of alcoholic beverages, fully support a change in the wine-gallon method of tax assessment for alcoholic beverages. The four domestic distillers produce nearly one half of all domestic spirits

2.C. CUSTOMS VALUATION

produced in the United States. It is their feeling that the current method of tax assessment has been a discriminatory trade barrier which upon removal will stimulate international trade. It is believed this stimulation of trade in general will produce benefits and revenues which will far exceed the reduction of revenue caused by a change in method of taxation."

2.D. FRAMEWORK

The Committee has considered the issue of framework and believes the matters covered by the code are not of significant interest to the sector.

2.E. GOVERNMENT PROCUREMENT

The Committee has considered the issue of government procurement and believes the matters generally covered by the code are not of significant interest to the sector. However, it does appear appropriate to report on the code. The Committee is informed that the United States intends to exclude DOD and USDA purchases of food and kindred products from the procurement code, a position supported by ISAC #1.

2.F. IMPORT LICENSING

The ISAC does not support the licensing code to the extent that it sanctions practices heretofore incompatible with GATT Article XI and other GATT provisions.

2.G. SAFEGUARDS

The ISAC endorses the principle of uniform international safeguard procedures. The ISAC notes the fact that the United States has thus far been unable to negotiate a final code.

2.H. STANDARDS

The ISAC favors the provisions of the Standards Code which state as a general rule that technical regulations and standards should not create unnecessary obstacles to international trade and which call for open procedures and public participation in elaborating, promulgating, or amending standards and for their publication.

2.J. SUBSIDIES

ISAC #1 in principle supports the Subsidies/CVD Code. However, the ISAC is disappointed that the United States was unable to obtain a prohibition on export subsidies on agricultural products comparable to the restrictions achieved on industrial products. The ISAC believes that export subsidies should be prohibited for agricultural products. The following are observations and recommendations of the Food and Kindred Products sector.

1) The injury test adopted into U.S. law should be no more demanding than that in the code as appears in Section 1-F.

2) In the event the GATT panel under "track II" is unable to make a final determination the provisional measure taken should be permitted to continue until the panel makes its final determination.

3) ISAC #1 is concerned about the definition of primary versus non-primary products and the effect of these definitions on the fisheries and processed food sectors.

4) In the new CVD statute, determination of injury should be made by the U.S. International Trade Commission.

5) If a two-price system is in effect in the United States for rail or other transportation, any advantage for exported articles should be considered an export subsidy.

TARIFF REPORT

The Food and Kindred Product sector does not oppose the MTN tariff package. While generally acceptable, this ISAC must express disappointment on the inability of the Administration in many cases to gain equitable access to foreign markets in terms of tariffs. This imbalance becomes more disturbing when one observes the fact that foreign subsidies and quotas for agricultural products will continue to exist thereby restricting market access for highly competitive U.S. agricultural exports.

Canned Food Industry

Tariff concessions obtained by the United States cover a broad range of canned food products and indicate that improved export opportunities exist. Further, it appears that tariff concessions granted by the United States (as of April 19, 1979) do not appear to jeopardize domestic production of canned food products represented by the ISAC. However, Hawaiian pineapple interests are deeply concerned that the effects of U.S. tariff concessions on pineapple juice and concentrate will severely injure the Hawaiian pineapple industry. These concessions should be withdrawn.

Canned fruit exporters are disappointed that the United States did not obtain elimination of the EC variable sugar

levy or its consolidation into the common external tariff as had been urged in the industry's Section 301 complaint and in other recommendations.

Fisheries

The fishing industry is concerned about the extent of U.S. concessions on fisheries tariffs including processed and canned fish products. Tariff cuts were made on products which have potential for development and expansion of domestic production, at a time when U.S. manages the use of resources within the 200 mile fisheries zone. These concessions amplify the disadvantage of the U.S. fisherman already caused by foreign subsidization and granted fishing rights to foreign fleets in the U.S. zone. The U.S. tariff concessions on fish appear excessive when considering the fact that the EC has not responded satisfactorily to U.S. requests and continues to maintain NTM's and high tariff rates on fishery products which restrict potential U.S. exports.

Brewery Industry

The U.S. tariff, since the Kennedy Round, is 6¢ per gallon for imported malt beverages, the lowesc of all developed nations. Foreign tariff barriers are extremely high and materially restrict U.S. exports of malt beverages. Although this disparity in access was acknowledged, the

TARIFF REPORT

Administration still failed to obtain any foreign concessions for this industry thus failing to achieve reciprocity or equity in market access for this competitive subsector in terms of either tariffs or NTM's.

Tobacco Industry

Basically believes negotiations have done a good job and the industry finds the agreements acceptable and beneficial.

Meat Processing Industry

The U.S. Meat Industry recommended that our trade representatives obtain access to the markets of the developed countries for U.S. meat. An almost total ban on U.S. meat has long existed in the European Community. Japan has only recently permitted a trickle.

The access agreements obtained are a disappointment and fall far short of the industry's hopes. At the same time, it must be acknowledged that some progress was made and there now seems to be a slight crack in doors which have been firmly closed. This is significant.

It is vital that no barriers be established or invoked to inhibit the movement of this additional tonnage of U.S. meat.

TARIFF REPORT

Further, it is recommended that a continuation of bilateral discussions take place in a constant effort to eliminate the tariff and non-tariff barriers which so rigidly limit U.S. meat export sales.

Cereal Milling Industry

The summary comments on page 1 of this report properly describe the situation as it applies to milled products. While this competitive industry has made considerable input, little attention was paid to its advice. Instead of obtaining meaningful tariff and non-tariff concessions which would represent increased export potential, the United States has allowed the current inequitable market access situation to remain. Thus low rates of duty will continue to exist for exporters to the U.S. market, while very few meaningful concessions which would increase access were obtained from our trading partners. Additionally, foreign agricultural subsidy practices, especially those existing in the EC, will continue to disrupt the world market situation for milled and other agricultural products.

UNITED STATES DEPARTMENT OF COMMERCE

OFFICE OF THE SPECIAL TRADE REPRESENTATIVE

Industry Sector Advisory Committee on

Textiles and Apparel

For Multilateral Trade Negotiations

(ISAC 2)

Stage 2 Report on

Multilateral Trade Negotiations Issues

April 30, 1979

R. Buford Brandis
Chairman, ISAC 2

1. Subsidies and Dumping Code

In general, our negotiators have done a good job of negotiating a Subsidies Code and Antidumping Code at Geneva. The important thing, however, is the implementing legislation, the amendments to the countervailing duty and antidumping statutes which will give practical effect to the Code under American law.

In order for these statutes to be effective they must contain the following points:

(1) The amount of antidumping or countervailing duty imposed should fully offset the margin of dumping, or the net subsidy. There is no precedent in existing law to impose less than the full amount. To open to unrestricted subjective determination the imposition of a lesser amount as eliminating the injury could result in settlement of most cases at less than the full amount of the dumping margin or subsidy. Settlement for less than the full amount would not discourage the unfair trade practice the statutes are designed to prevent.

(2) For an affirmative determination under either statute, subsidized or dumped imports should be a "cause" of injury to a domestic industry. This is the current test in the antidumping statute. To add to the antidumping and countervailing statutes a tougher "substantial cause" test from the escape clause Section 201 response to fair competition would result in a tougher overall burden of proof in the unfair trade statutes than exists in the fair trade statute. This is patently not the intent of the Administrati

(3) Injury in both the antidumping and countervailing statutes shall be defined as anything more than immaterial or inconsequential. This is a test similar to that contained in the current antidumping statute. The

Administration has indicated it does not intend to expand the current test of injury. By definition, if injury is more than "trifling" it is consequential or real injury. Relief from real injury should be available, at whateve level real injury occurs, whether higher or lower on the scale of real injury

(4) From the date of filing the complaint 120 days should be a sufficient period of time in both statutes for a preliminary determination. Either too short or too long a period of time for investigation is detrimenta to the interests of both importers and complainants. Other major governments are able to act even more quickly on such complaints. The ability to operate within the proposed time limits devolves on setting priorities, allocating resources, and ultimately upon the will of the United States Government.

(5) After an affirmative preliminary determination, cash deposits equal to the amount of the subsidy or the margin of dumping should be require Most other countries require cash deposits as an incentive to terminate dumping. If the final determination is negative, cash deposits with interest would be returned. This requirement would cure past abuses. The recent T. V. imports case is illustrative of the kind of past practice to which we refer.

2. Counterfeiting Code

The Code as drafted is basically satisfactory. We hope it can be concluded. It is essential that the present provision requiring confiscation of goods as the sanction not be modified. Punitive economic loss to the offending party must be imposed to ensure that the situation does not reoccur.

Disposal of the counterfeit merchandise should not lessen the punitive

economic loss by allowing the confiscated goods to reenter commerce, or to be utilized by the confiscating government. Both such actions would be detrimental to normal sales opportunities. The wording in the implementing legislation and the non-tariff Code on counterfeiting should be strengthened to ensure that total punitive economic loss to the offending party is achieved by only allowing the disposal of counterfeit merchandise through destruction or donation to charity. Counterfeit merchandise should not be allowed to reenter commerce even when the obliteration or removal of counterfeit trademarks or trade names is required; and the confiscating government should not be allowed to utilize the counterfeit merchandise in any manner.

3. Customs Valuation Code

None of the provisions of Article 8 provide for the inclusion of payments made for a quota (or portion thereof) in the dutiable value when such payment is made by the importer (buyer) or his agent in the country of export. Inasmuch as such payment, while not reflected in the transaction value, is nonetheless included in the buyer's cost and will therefore be reflected in the buyer's use cost or resale price, it should be added to the declared value.

4. Government Procurement Code

As provided in the Administration's Textile Program, textiles and clothing covered by the "Berry Amendment" to the Defense Department Appropriation Act are to be excluded from the Code's coverage. Thus Defense will continue to purchase textiles and clothing solely from United States sources. Both the Code and the implementing legislation should spell this out very specifically.

5. Safeguards Code

This Code has not been completed at Geneva; however, we understand that negotiations are continuning. Such a Code, if completed, must in no way impinge upon the GATT Multifiber Arrangement (MFA).

6. Import Licensing Code

This Code is satisfactory as it stands.

7. Standards Code

The United States has surpassed the rest of the world in the development of technical and performance standards for textiles and apparel. These should be applied equally to imported and domestically produced items.

8. Steel Agreement

We have no comment.

9. Aircraft Agreement

The exemption of textile components from coverage should be spelled out clearly.

10. Framework Agreement

Paragraph 5, under Point 2A, Draft Declaration on Trade Measures Taken for Balance-of-Payments Purposes, should be eliminated. The paragraph reads:

> "Reaffirming that restrictive import measures taken for balance-of-payments purposes should not be taken for the purpose of protecting a particular industry or sector."

11. Enforcement of United States Rights

Once the Codes and implementing legislation are adopted by Congress, private rights of exporters, domestic manufacturers, and importers will be widely affected. In the United States many persons engaged in such trade will have access to our courts in order to reverse or modify administrative decisions on valuation by Customs, standards of products, and other subjects

covered by the Codes. However, the same recourse is not likely to apply in foreign countries--with the possible exception of the United Kingdom, if there.

The enforcement procedures under the codes refer only to enforcement action by other governments. Our Government decisions alone, however, will also be open to attack in our courts by private parties. Not so abroad.

We therefore believe appropriate provision should be made for equivalen rights of enforcement.

Ideally, all signatory countries should be subject to the same system for enforcing private rights against them as exists in the United States, and where they have no such review of government decisions in their own courts, they should be answerable to private suits in other tribunals, possibly of an international nature. Otherwise an inequality of enforcement will affect all Codes and impair their effectiveness.

We recognize that such an ideal solution is remote and impractical, though the inequality of enforceability is real, serious, and must be addressed. Therefore we propose another remedial route.

The Codes provide for grievance procedures to be undertaken by one country where breaches have been committed by another. However, unless implementing legislation provides otherwise, our Government officials who are charged with the responsibility may waive rights and do nothing in the face of code violations by others. It is therefore recommended tha implementing legislation provide that any person whose interests are adversely affected by any such breach, or any trade association or trade union representing such interests, may petition the Government for remedia action; and within a limited and specific period, appropriate officials

must either take remedial action or furnish a full public explanation, with adequate supporting detail as to why remedial action is not being taken. Any such failure to act should be subject to judicial review in a proceeding initiated by any aggrieved party.

Further, where our Government does decide to pursue remedial action against code violations by any other country, private interests of American business and labor offended by any such breach should be represented in negotiations and in our Government's presentation of any demands for relief Inasmuch as such Government action will be a substitute for the initiation of private suits against the offending country, such representation and participation by American private interests in devising and prosecuting any action to be taken by the United States in such circumstances should involve full disclosure of information to such private representatives and full consultation with and participation by them in decision making.

12. Private Sector Advisory Committees

The Private Sector Advisory Committee structure as established in the Trade Act of 1974 has been a valuable mechanism for identifying objectives and priorities for our Government during the Multilateral Trade Negotiations. On numerous occasions the Committees provided valuable insights and advice on the Government objectives and posture concerning foreign non-tariff barriers that undoubtedly prevented the seeking or acceptance of unimportant or improper concessions.

While it is apparent that some consolidation and streamlining of the Private Sector Advisory Committee structure can be accomplished, the Industry Sector Advisory Committee on Textiles and Apparel (ISAC 2) should be continue

as a separate Committee without any further consolidation with any other industry groups. This Committee already represents a consolidation of two large sectors. The special situation of the textile and apparel industries warrants the continuance of ISAC 2 as a separate Committee, especially in light of the new Administration Textile Program.

13. Licensing of Trademarks and Technology

The apparel industry exports to developing countries are limited. These industries had the initiative to begin licensing products. Now developing countries are eliminating this means of selling in their market. At the same time these countries are asking for larger import quotas and lower duties in the United States. We regret this problem was not addressed at Geneva despite our early request thereon.

14. Summary Appraisal

Our general conclusion is that, in a spirit of developing freer trade, our negotiators have concluded a package of agreements which may eventually facilitate and increase the flow of products between countries on a fairer basis. However, it would be most prudent of the United States to take a cautious approach to full acceptance of our trading partners' intentions to implement these agreements in the same spirit as that usually demonstrated by our Government. Through a variety of obvious and not so obvious and devious techniques, many of our trading partners have historically successfully favored local enterprises at the expense of foreign suppliers. Notwithstanding the agreements on the new Codes, this Committee anticipates that foreign governments may be slow to provide fair treatment to all suppliers.

The main trading partners--Japan and the European Community--currently maintain various means to deny foreigners access to their respective markets.

Japan, through the Ministry of International Trade and Industry (MITI), exercises strong and effective administrative guidance over the trading companies which control a major portion of Japanese trade in both directions.

A system which has restricted access of United States and other foreign textile suppliers to the European market continues in the form of the Rules of Origin which, in violation of the GATT, were implemented in the early 1960's by the European Free Trade Area and subsequently expanded with the United Kingdom entry into the European Common Market in the early 1970's. They now cover trade between these two major blocs and many of their associated trading partners in the Mediterranean region.

The European Community textile tariff offer is appropriate overall but is by no means as generous as Brussels would have the world believe. In some areas duties remain high and especially in the product areas where United States firms are world competitive.

It is therefore apparent that the Executive and Legislative Branches of the United States Government must establish the necessary monitoring and review of these Agreements to determine over the long term that United States industry, workers, and consumers derive the benefits projected.

The Canadian textile tariff concessions are minimal and the Japanese ones practically meaningless. United States concessions, while negotiated with the Community primarily, will be extended to the developing countries as well, of course. This makes continuation of the Multifiber Arrangement, and firm administration of United States rights thereunder, of the utmost importance.

The Administration's Textile Program contains a commitment that a "snapback clause, effective during the implementation of the MTN tariff

reductions, which will restore textile and apparel tariffs to their pre-MTN levels if the MFA does not continue to be in effect or a suitable substitute arrangement is not put into place, will be adopted as part of the implementation of the MTN tariff reductions." Precise language to accomplish this should be part of the implementing legislation as well as of the GATT Protocol.

The Senate Finance Committee on April 5 announced tentative agreement to include in the MTN implementing legislation an extension of the President's negotiating authority granted by the Trade Act of 1974. ISAC 2 strongly opposes any extension of the President's negotiating authority beyond its scheduled expiration date, January 2, 1980. Tariff reductions negotiated under the Trade Act of 1974 cover almost all of the products imported into the United States which are subject to duty. These reductions, slated to be implemented over a period of up to 10 years, were negotiated in the context of the general economy, as well as the health of the domestic industries involved. We respectfully submit that it would be inappropriate to negotiate additional reductions in duties before the full effect of the reductions already negotiated can be measured. Accordingly, we urge that the Congress not extend the President's negotiating authority given under the Trade Act of 1974.

U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON LUMBER AND WOOD PRODUCTS FOR MULTILATERAL TRADE NEGOTIATIONS (ISAC #3)

REPORT ON MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 19, 1979

Clark E. McDonald
Chairman, ISAC #3

OVERALL

ISAC 3 unanimously supports the results of the MTN and urges passage of enabling legislation. We believe that on balance, the wood products industry lost more than it gained in tariff issues. At the same time, gains in non-tariff codes and agreements offset the shortfall in tariff results.

1. TARIFFS

U.S. tariff reduction offers on wood products averaged 53 percent. However, our trading partners have been less generous.

The Japanese bilateral tariff and nontariff settlement is poor, gaining us only: a 15-25 percent reduction in plywood and veneer duties extended over an unreasonable period of time; a delayed 40 percent reduction on a very narrow lumber species grouping of minimal benefit to U.S. exporters; a 33-40 percent reduction in reconstituted wood, a small export item; and, merely a commitment to discuss modification of plywood standards in the future. On a positive note, our negotiators gained a 100 percent tariff reduction on doors and window sashes and a 46 percent reduction on hardboard.

The Australians have given nothing in the MTN. Moreover, outside the MTN, and even during negotiations dedicated to reducing trade barriers, they unilaterally increased effective tariffs by more than 200 percent on the softwood lumber items most promising for the future of the U.S. trade.

The Canadian negotiation offers a harmonized tariff reduction on softwood plywood contingent on the establishment of mutually satisfying North American softwood plywood standards and indicates a willingness to correct certification methods on hardwood plywood. If this negotiating package is concluded, it should be beneficial to the U.S. industry.

The EC offer on plywood seems marginally advantageous. A 30 percent reduction in tariff, though not as much as was hoped for is satisfactory. The 50 percent increase in quota to 600,000m^3 is helpful, however, it is still 100,000m^3 less than the voluntary quota afforded in 1978 and 1979. In addition, reduction in thickness affecting this quota provides some benefit. The EC offer on lumber is according to formula.

The softwood plywood industry and several members of the ISAC requested certain U.S. tariff actions that were denied by the USG.

2.B. COUNTERFEITING

ISAC 3 supports a code on commercial counterfeiting.

We have industry grading and verification systems in wood products with considerable integrity. Furthermore, a number of products have brand names of long standing. The counterfeiting code appears to give protection and remedies in world trade that had not existed heretofore. However, we also recommend the inclusion of copyrights. In addition, we strongly urge that certification marks be included.

2.C. CUSTOMS VALUATION

ISAC 3 supports the Customs Valuation Code agreement. We are particularly supportive of transaction value aspects of the code.

In supporting the Customs Valuation Code, ISAC 3 believes that optimum code benefits will be achieved o ly through satisfactory implementation of enabling legislation.

2.D. FRAMEWORK

ISAC 3 supports the various agreements making up the modifications to the Framework of the GATT conditioned on enactment of satisfactory implementing legislation.

The complaint and dispute settling mechanism appears to offer an improved means of dealing with trade disputes. Continuing negotiations on export controls could help the wood industry resolve supply issues.

The LDC's are now, and can increasingly become, major competitors to U.S. wood products producers. Thus, a means of graduated and timely withdrawal by them from preferential arrangements gained through their LDC status will assure equitable competition in the U.S. and in other countries.

The criteria necessary to show balance of payments difficulties seems to benefit the U.S.

2.E. GOVERNMENT PROCUREMENT

ISAC 3 supports the intent of Government Procurement Code. We particularly endorse the transparency provision but cannot evaluate whether wood products would benefit or be damaged from code until transparency is achieved.

We believe that implementing legislation should require very close monitoring.

We are not sure whether the wood products industry will benefit or be harmed to any significant degree from this code. We have little evidence that our industry has been discriminated against by foreign government buying practices.

On the other hand, the code, particularly its transparency provisions and mandatory coverage of specified foreign agencies, does seem to benefit U.S. industry as a whole and might benefit the wood products industry in the future.

2.F. IMPORT LICENSING

ISAC 3 supports the Import Licensing Code.

Due, however, to the traditional channels with the international trading of wood products, no ISAC member has personal knowledge of difficulties in this area, although they may exist. Implementation of this code should benefit in principle any U.S. exports.

2.G. SAFEGUARDS

ISAC 3 supports the Safeguards Code contingent upon our review in its final form. It seems to benefit U.S. exporters generally.

The code, as finally drafted should give the U.S. producer the same protection domestically that he has had under the Trade Act of 1974.

We would also encourage U.S. negotiators to agree to let safeguards be used selectively.

Implementing legislation must include steps that speed up processing safeguard claims.

2.H. STANDARDS

ISAC 3 supports the standards code with reservations.

On the positive side the code offers a vehicle for U.S. wood products exporters to deal with major nontariff barriers that exist in many countries.

Further, the code provides for potential agreement between countries on reciprocal acceptance of standards. The potential here is excellent, even though there will be practical problems of implementation.

In addition, the code encourages acceptance of reciprocal certification. This can provide advantages to U.S. producers.

Because of variations in wood species, performance standards are generally preferred by the wood products industry and we note that they are encouraged by the code. This is a major advantage to the U.S. wood products producers, who have long argued for performance standards as opposed to any other kind of standard.

Also the code provides a means for channelling and settling disputes. Time limits exist for international dispute settlement procedures. We would urge rapid processing of complaints to be indicated in the domestic implementing legislation.

Finally, the code encourages the long term establishment of international standards. This may provide some advantages to the U.S. exporter.

However, the possibility that international standards that are detrimental to our industry may be established, plus the clear statement that government will use all reasonable means available to encourage private standard conformity, may bode problems for the U.S. wood products industry. Therefore, the enabling legislation should avoid making adoption of international standards mandatory.

In addition, ISAC 3 urges enabling legislation to be drawn so that voluntary standards use will not be denied U.S. producers unless the standards complained of were expressly developed to provide obstacles to international commerce.

We oppose undue USG regulation of private industry standardization activities, as exemplified by current FTC proposed trade regulatory rules on standards. Enabling legislation should not reflect the same philosophy.

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2.J. SUBSIDIES

NAM supports the Subsidies/Countervailing Measures Code.

Many countries subsidize their forestry and wood products manufacturing industries. Further, some provide under certain circumstances, subsidies specifically for export. The code flatly prohibits the latter and gives added and needed protection against internal subsidies.

The procedures which force signatory LDC's to phase out these export subsidies enhances U.S. industry's competitive position both here and abroad.

Further, the broadened injury test seems to offer benefits to domestic industry and the concept of serious prejudice appears to benefit U.S. exporters.

The use of DISC has been a major asset in increasing exports and would be a major loss if it were relinquished.

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U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
PAPER AND PAPER PRODUCTS
(ISAC #4)

REPORT ON
MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 20, 1979

(Revised 4/24/79)

Irene W. Meister

Irene W. Meister
Chairman, ISAC #4

1. OVERALL

ISAC #4 representing the American pulp, paper, and paperboard industry reviewed the progress made to date by the U.S. Government on non-tariff codes. From the onset of the Tokyo Round, the U.S. paper industry supported liberalization of trade as the best means of increasing U.S. exports. Lack of transparency, arbitrary trade actions by foreign governments and growing interference with the flow of trade led our ISAC to believe that internationally agreed upon non-tariff codes would be essential if long-term trading conditions are to be improved.

For the paper industry, the prime objective in these negotiations has been reduction of tariffs. Nevertheless, reduction of non-tariff barriers is significant for our industry because of the impact that the overall increase in U.S. exports has on the paper industry's indirect exports, i.e., domestic sales of paper industry products that take place only because of the export demand for the products of another industry. As the overall trade increases, so do paper industry indirect exports. Packaging is the most easily understood example, but there are several other forms of indirect exports. We estimate the paper industry's indirect exports for 1977 at about $5 billion.

1. OVERALL

Although a number of important details must still be negotiated in some of the codes, we believe that the U.S. Government has achieved a number of major breakthroughs toward improved international discipline, greater transparency of trade actions, and settlement of disputes -- all the essential prerequisites for an expanded world trade.

Whether the non-tariff codes will achieve their objectives will depend, to a major degree, on the effectiveness of their future enforcement. Consequently, we would like to emphasize, at this time, the necessity for future consultative arrangements between the government and industry.

In negotiating the non-tariff codes, the U.S. Government has had to meet some of the demands of other negotiating nations. On balance, however, we feel that reciprocity will be achieved to a degree consistent with the objectives of these negotiations.

ISAC #4 believes that implementing legislation should include certain points to assure that full benefits of the agreements are realized. Our recommendations are included as a part of this report.

2.A. AIRCRAFT AGREEMENT

The Committee has considered the Aircraft Agreement and believes the matters it covers are not of significant interest to this sector. For this reason, it does not appear appropriate to report on the agreement.

2.B. COUNTERFEITING

The Commercial Counterfeiting Agreement essentially extends U.S. law on this issue to our international trading partners. The Agreement will be indirectly beneficial to the paper industry to the extent that U.S. exporters of trademarked merchandise use paper to produce, or to package, these products. This ISAC endorses recommendations made by the U.S. Chamber of Commerce that certain due process safeguards be included in the final agreement.

2.C. CUSTOMS VALUATION

The Customs Valuation Agreement should be of significant benefit to exporters of those paper products with higher value added. The paper industry also will benefit indirectly through exports of products that use paper, as for example in packaging or publications. These benefits will come through the anticipated reduction in the arbitrary "uplifts" to prices -- sometimes exceeding 50 percent -- so often applied by foreign governments before assessing duties.

There should only be a minor reduction in protection for all U.S. industries resulting from this Agreement. The American Selling Price system -- the major non-tariff measure in U.S. valuation law -- used for chemicals, rubber footwear and certain other products, is to be replaced by tariff rates that should give equal protection. A worthwhile benefit of this agreement is the elimination of many technical problems present in current U.S. customs valuation law.

The agreement provides a choice of using FOB or CIF valuation. At this point in time, this Committee believes that it is appropriate for the United States to remain on an FOB valuation basis.

2.C. CUSTOMS VALUATION

The Committee supports continuing efforts by the U.S. Government to secure maximum participation by less developed countries.

2.D. FRAMEWORK

1. Enabling Clause/Reciprocity/Graduation

ISAC #4 agrees with the principles outlined in this section of the Agreement. Full reciprocity from developing countries cannot be expected, but contributions from developing countries should be subject to "graduation," i.e., their contributions should increase consistent with their stage of development and future development needs. This will meet our objective that developing countries accept greater obligations under the GATT as their economic conditions improve. We are also in full accord with the proposition that special and non-reciprocal treatment of the developing countries by the developed countries is a voluntary not a mandatory action within the framework of the GATT.

2. Trade Measures for Balance of Payments Purposes

We support the objectives stated in the preamble to this section of the framework agreement and the provisions which call for signatories to give preference to those measures having the least disruptive effects on trade. The notification and consultation provisions also provide a significant step forward. In general, this section of the framework agreement is likely to provide for greater equity and fewer disruptions of trade when measures are invoked for balance of payments purposes.

2.D. FRAMEWORK

3. Safeguard Action for Development Purposes

This section of the framework is completely acceptable. Broadening the provisions of Article XVIII does not create problems for our industry since the objective of minimizing trade disruptions when such actions are taken is still a part of Article XVIII.

4. Dispute Settlement

The dispute settlement provisions are acceptable. ISAC #4 recommends that, to the extent possible, the time limit for panel proceedings on conflicts not covered by specific agreements be strictly adhered to.

5. Export Constraints

It is unfortunate that it has been impossible to negotiate a draft to modify existing rules in the GATT with regard to export controls. ISAC #4 urges the United States Government to continue to press for resolution of this issue in the post-MTN period. Although recognizing that improvements in dispute-settlement procedures will help reduce arbitrary invocation of export controls, this area should continue to be one of high priority for subsequent negotiations.

2.E. GOVERNMENT PROCUREMENT

It has been most difficult to discourage discrimination in Government Procurement because of existing preferences for domestic suppliers and the non-existence of a comprehensive control system. A Government Procurement Agreement for insuring competition is much needed, but its success will depend on the effective monitoring of performance by others under this Agreement. We strongly endorse the U.S. negotiating objective of transparency by the signatories to the Agreement. Unless the enforcement procedures insure the total openness or transparency, perpetuation of the present discriminatory system of government procurement will result.

In regard to Scope and Coverage, we expect that the principle of equal trade opportunity will be maintained and that allowed exceptions will not be abused to permit discrimination against U.S. suppliers.

It is important in the case of Special and Differential Treatment for Developing Countries, that realistic considerations be made to accommodate their financial, trade, and development needs. However, when they reach the stage of advanced industrial countries, they must accept the full obligations of this Agreement.

This Committee encourages inclusion of additional entities and a lowering of the threshold level.

2.F. IMPORT LICENSING

ISAC #4 is in full agreement with the principle that import licenses covered by "automatic" licensing systems should be granted promptly (i.e., within 10 working days from time of applications). Decisions on whether or not to grant non-automatic licenses also should be made promptly. We are fully in accord with the principle that the period of duration of a license should be long enough not to preclude importation from taking place. Further, we believe that the provision of information concerning the number and value of licenses granted (in the case of non-automatic licensing systems) and the publication of information on the administration of quotas will work to liberalize trade, especially with developing countries where problems with such systems are the most common.

ISAC #4 believes that further development of the section on consultation and dispute settlement might be useful to clarify the relationship between the licensing agreement and the GATT Articles XXII and XXIII.

ISAC #4 also would urge that continued efforts be made to have developing countries accede to the agreement. In addition, it is vital to have a central point in the United States Government to which specific complaints can be brought

2.F. IMPORT LICENSING

and from where information can be obtained. We hope, therefore, that this will be included in our own implementing legislation.

2.G. SAFEGUARDS

The comments of this ISAC pertain to the present draft of this agreement.

ISAC #4 fully endorses the basic principles of the safeguard agreement and recognizes the necessity for affording temporary relief to domestic producers from seriously injurious import competition.

We are in concert with the basic philosophy that safeguard action should be restricted to those areas established under GATT Article XIX and be in accord with other provisions within this code. We recognize that compliance depends upon the obligations accepted by the parties concerned and it is hoped that safeguard actions taken outside the scope of GATT Article XIX will be kept to a minimum.

The factors set forth for the determination of serious injury are acceptable and should offer a broad enough spectrum of consideration for any injured party.

The conditions of safeguard set forth in chapter 2 embrace the basic principle of offering temporary relief to the injured party and not establishing a permanent barrier to trade. The determination of a representative previous period should perhaps be more definitive.

ISAC #4 endorses the principle of negotiated selective safeguards as being the fairest manner of employing safeguard action and the least injurious to third parties. It

2.G. SAFEGUARDS

is hoped that this method will become the basic text of chapter 4. We do not support any action that would disrupt third party markets and believe it is the responsibility of the major parties concerned to avoid such disruptions.

We fully endorse the formation of a committee to survey and settle disputes arising from safeguard actions. A yearly review of any actions in effect should be made and corrective recommendations should be suggested to the parties involved.

This industry recognizes that special benefits must be afforded developing countries and that, if safeguard actions must be taken, care must be exercised to minimize negative impact on their economic development. The determination of the attainment of higher level of development by these countries may produce a grey area and should perhaps be determined by the committee. We would hope the text of chapter 8 would provide for this.

It is the recommendation of ISAC #4 that any and all safeguard actions should terminate in not more than a 5-7 year period. This is consistent with the principle of offering temporary relief to concerned parties while maintaining free and open worldwide competition.

2.H. STANDARDS

This industry represented by ISAC #4 produces a wide variety of products utilizing mechanical and chemical wood pulps, recycled and synthetic fibers and other raw materials. The products of the paper industry are manufactured to standards and technical specifications which meet the requirements of the end-users of these products. Even though the U.S. products might be fully acceptable to the end-users, our trading partners have been able to introduce product specifications and standards that best suit their individual situations resulting in standards which discriminate against paper products produced in the United States.

The standards agreement will help prevent manipulation of product specifications and standards to discriminate against imports.

The agreement also allows the use of voluntary standards, a provision strongly endorsed by this ISAC.

The Committee believes the standards agreement to be a realistic and workable approach to the question of technical barriers to trade and supports its adoption in the form set forth.

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2.I. STEEL

The Committee has considered the issue of Steel and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

2.J. SUBSIDIES

We endorse the results of the negotiations on subsidies (countervailing duties and antidumping) covering direct and indirect export subsidies, and non-export subsidies under the two-track system of enforcement. The existing U.S. countervailing law has proven to be difficult to enforce. Therefore, what the United States may appear to sacrifice in having to institute an injury test is more than offset by the advantages that accrue to U.S. industry by this two-track system of enforcement.

ISAC #4 believes that the modification of Track I and the institution of Track II greatly enhance the international approach to a fair treatment for U.S. products on a worldwide basis particularly if an international panel is established to put real teeth into the enforcement procedures.

We are in agreement that the proposal be approved to introduce into the Antidumping Code injury/causality/regional market criteria and the transparency provisions (i.e., public notice requirements, etc.) negotiated in the subsidy/CVD context.

2.J. SUBSIDIES

While we have been advised that no action will be proposed in the MTN negotiations or to Congress regarding DISC, we want to go on record that the advantages which accrue to our trading partners from such things as border taxes, indirect taxes, etc., make it advisable to maintain DISC in its present form both as an export incentive and a future negotiating tool. Until some reasonable resolution can be reached in an international tax conference, we urge the Government not to forfeit the advantages of DISC.

PRELIMINARY REPORT ON TARIFFS

For the U.S. paper industry, tariff barriers are the most important obstacle to trade. Without tariff reductions, the U.S. paper industry faces high tariffs in Japan and Canada--two potentially important markets. Our largest market is the European Common Market and there we are confronted not only with high tariffs (8-14%) but, what is more important, with the lack of tariff parity with our major competitors--the Nordic countries. This lack of tariff parity came into being when the EC and EFTA countries agreed to create free trade zones between these two large trade blocs. Consequently, by January 1, 1984, all imports from Scandinavian countries will enter the EC duty free. In such products, as for example, printing/writing papers and coated bleached kraft board used in packaging, the disparity in tariffs is already 6%. For uncoated kraft paper and board the disparity is now 4%. Without the reductions negotiated in the MTN, this disparity will widen endangering our very presence in that market.

It is for these reasons that ISAC 4's prime objective in these negotiations was significant reduction of tariffs. We should stress that the U.S. paper industry, when not hindered by tariff and non-tariff barriers, is cost competitive anywhere

PRELIMINARY REPORT ON TARIFFS

in the world and, based on a renewable resource, is a natural long-term exporter.

In its advisory report, this ISAC identified three markets--EC, Canada and Japan--as the most important to achieve tariff concessions. In addition, we also identified other specific countries where reductions of tariffs on specific paper products would be helpful.

At this point we can only present to Congress our preliminary assessment of the results of tariff negotiations in our sector for two reasons:

1. In the EC, the offer on tariffs in the major product area "kraft paper and paperboard" cannot be evaluated because a question of the definition of these products--a key ingredient in U.S. requests--has not yet been resolved. ISAC 4 evaluated EC objections to the U.S. request for a change in the EC definition on kraft which constitutes a major non-tariff barrier. The U.S. offered a fair and equitable solution to the problem, but as of this date, the issue is still pending. For the U.S. paper industry, the value of the EC tariff offer on kraft would be greatly impaired if the problem of definition is not resolved. We urgently seek resolution of this problem

PRELIMINARY REPORT ON TARIFFS

2. We cannot yet evaluate the tariff concessions that might be offered by less developed countries because this information is not available at this time.

Most U.S. tariffs on paper and paperboard are low. Under the present offer, our tariffs will be reduced by the maximum amounts permitted by the 1974 Trade Act. Thus the U.S. paper industry will lose whatever small protection these tariffs have offered. Nevertheless, we are prepared to support the U.S. offer which is consistent with the U.S. paper industry's support of trade liberalization provided that we can reduce substantially barriers to our exports in foreign markets.

On balance, looking at all our markets, we believe that the tariff concessions obtained by our negotiators will make an important and lasting contribution to strengthening the U.S. paper industry's great export potential especially if the problems mentioned in this report are resolved.

Below are our comments on the three major markets:

JAPAN

ISAC 4 is particularly pleased with the tariff offers which our negotiators have been able to obtain. These are significant decreases from the currently applied rates, and

PRELIMINARY REPORT ON TARIFFS

should be of material benefit to both U.S. industry and our Japanese customers. The product coverage in the offers is broad and includes all product categories potentially significant in trade with Japan.

We recommend:

1. That Japan's reductions in tariffs start from the "applied" rates not the "bound" rates for all products on which offers have been made.

2. Given the delayed staging for kraft linerboard, we urge our negotiators to seek accelerated staging of tariff reductions from the applied rates for other major paper products.

CANADA

The Canadian offer on tariffs for paper and paperboard is acceptable although their levels of duty remain significantly higher than those of the United States. ISAC 4 believes that the tariff agreement overall is positive and will provide increased opportunities for trade between both countries.

PRELIMINARY REPORT ON TARIFFS

There are two areas of major concern to which the industry and the U.S. negotiators should stay alert. The first concerns the duty levels on kraft linerboard and bleached board which were not reduced commensurately with other products. The Canadian industry producing these two products is of international standing and should not need such protection. We urge U.S. negotiators to seek reductions on these two products to at least 6.5% in bilateral negotiations or have certain U.S. concessions to them withdrawn.

The second major concern is in the area of staging. Since U.S. duties are already low in relation to Canadian, we feel strongly that U.S. duty reductions should be staged no faster than by the eight equal increments presently agreed to.

EUROPEAN COMMUNITY (EC)

Our basic objectives in tariff negotiations with the EC were:

1. To achieve parity on kraft products with our major competitors in the EC--the Nordic Countries, and

2. To achieve reasonable reductions (at least formula) on printing and writing papers, non-kraft specialities, and converted products.

PRELIMINARY REPORT ON TARIFFS

The following schedule was accomplished on the major categories of paper and paperboard products:

	Present Rate	Offer	Percent Reduction
Uncoated kraft paper and paperboard (unbl., bleached or semibl.)	8%	6%	25%
Clay or polycoated bleached board	12%	8%	33.3%
Printing/writing paper and non-kraft specialty papers	12%	9%	25%

We recognized that during this negotiation it would be difficult for our Government to achieve our objective of parity with the Nordic Countries. While the reductions attained are less than a formula cut, ISAC 4 believes that this was a commendable achievement because of the strong protectionist pressures existing in the EC paper sector. Over the long term, the U.S. Government should continue to pursue the ISAC 4 basic objective of tariff parity.

It is also the feeling of ISAC 4 that the matter of staging is critical. The tariff concessions achieved are considered to be minimal and we urge that they be fully implemented to assure agreed upon full reductions.

PRELIMINARY REPORT ON TARIFFS

An extremely critical issue which has arisen during the negotiations is that of a proper product definition for kraft paper and paperboard. The current EC definition, if enforced by EC Customs would represent an insurmountable non-tariff barrier to U.S. trade. The definition that U.S. industry recommends has been agreed to in the Harmonized Systems Committee of the CCC by all participants including the EC. The CCC definition assures superior products for our customers at competitive costs.

ADDENDUM

Preliminary Report on Tariffs

Canada

At the time the report was written, the ISAC members were unaware that Canadian concessions on several grades of printing/writing paper were conditioned on a delay in staging. Subsequent to the ISAC meeting, Canada made a proposal to forego the delay in staging on the printing/writing papers in return for (1980) implementation of the final U.S. tariff rate on TSUS 252.67, opposed the Canadian proposal, while several other ISAC members interested in exports of chemical pulp printing/writing paper to Canada felt that it would be advantageous. All members attempted to obtain information as to the length of the intended delay in Canadian staging, but this information was not available.

ADVICE ON IMPLEMENTING LEGISLATION

1. We recommend that the President be given an extension of his tariff negotiation authority.

2. Implementing legislation should reflect provisions of negotiated codes and agreements as closely as possible.

3. ISAC 4 recommends that implementing legislation relating to the Import Licensing Code provide for a central point in the U.S. Government to which specific complaints can be brought and from where information can be obtained.

4. ISAC 4 believes that enforcement of the countervailing duty and antidumping laws must be strong, fair and effective. At the same time, in fashioning relief for the injured industries, the Government must have the necessary flexibility to affect relief without creating widespread retaliatory trade problems. Such relief would include negotiated solutions where appropriate.

5. ISAC 4 strongly urges that implementing legislation contain provisions for the continuation of the private sector advisory process with each major industry sector represented. There should be an advisory mechanism to deal with functional issues as well and each sectoral committee should be given an opportunity to participate when appropriate.

ADVICE ON IMPLEMENTING LEGISLATION

6. ISAC 4 recommends that there be an expression of legislative intent that foreign trade is a matter of national priority and thus effective U.S. Governmental organization for dealing with foreign trade policy and programs is imperative. Better coordination of trade policy and programs is necessary, but specific legislation dealing with governmental reorganization should be left to the immediate post-MTN period.

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
INDUSTRIAL CHEMICALS AND FERTILIZERS
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #5)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

May 10, 1979

Richard M. Brennan
Chairman, ISAC #5

1. OVERALL

GENERAL

ISAC #5 has been closely involved and active in the advisory process for the industrial chemical and fertilizer industry sector. The Committee believes this has been a most useful process and compliments the government personnel who have worked so hard to make the advisory system successful.

The Committee believes some on-going advisory process will be essential if the post-MTN implementation benefits are to be realized. The Committee would urge that such an on-going advisory process be established -- it would also help in the development and maintenance of a constructive U.S. international trade policy.

The MTN Package

The Committee has concluded after close evaluation of this extremely complicated MTN agreement that on balance the tariff and non-tariff measure agreements are acceptable to the Committee.

The Committee believes that its major charter is related to the review of the tariff-cutting agreement and codes included in the MTN package as they impact the chemical sector. There is also, however, a sense of responsibility to comment on both the implementing legislation and

1. OVERALL

administrative actions required by the MTN. Since this latter aspect of the process is still going on at this writing, the Committee's approval is confined to the Codes per se and the tariff reduction as they apply as of this date.

There are two items currently being considered in the implementing legislation which are of concern to the Committee. First, the extension of negotiating authority as described in the Senate Finance Committee's April 5, 1979 Press Release (#112, page 8). ISAC #5 strongly urges the Congress not to grant the extension of tariff-cutting authority described. The ISAC believes this is an unwarranted and unnecessary extension of authority and totally unappropriate to include such an important authority extension in the implementing legislation. The ISAC believes that the "housekeeping" authority already provided in Section 124 of the 1974 Trade Act is sufficient.

Second, the ISAC is strongly opposed to granting the President authority to conduct auctions for import licenses. The implementing legislation relating to the Import Licensing Agreement currently contains such prospective authority. The ISAC strongly urges its removal from the implementing legislation.

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2.A. AIRCRAFT

The Committee has considered the issue of aircraft and chooses to make no comment because the specific details of the agreement itself are not of significant importance to the chemical sector. For this reason, it does not appear appropriate to report on the agreement.

2.B. COUNTERFEITING

The Committee has considered the issue of counterfeiting and endorses the concept and need for the development of an internationally agreed to counterfeiting code.

2.C. CUSTOMS VALUATION CODE

In general, the Committee finds this code to be acceptable. However, it should be noted that the Committee believes several technical aspects of the code were not properly treated. For example, the text of Article 8, 1(c) and 1(d) could result in the opportunity for automatic uplift of chemical imports into many countries.

The necessary implementing legislation and administrative actions required to make this code operative are very important. The Committee's endorsement is limited to the code itself and in no way implies endorsement of an as-yet-unavailable final integrated customs package in the code, the implementing legislation, and administrative actions.

2.D. FRAMEWORK (GATT REFORM)

1. Differential and More Favorable Treatment: Reciprocity and Fuller Participation of Developing Countries

This "code" is designed to permit GATT contracting parties to accord differential and more favorable treatment (re tariff and non-tariff matters) to developing countries, without according such treatment to other contracting parties.

ISAC 5 agrees in principle with the proposal, but feels that the subject text should appear as a GATT Declaration, rather than a new Article in the General Agreement.

ISAC 5, while recognizing the pragmatic and political rather than jurisprudential nature of the GATT, still feels it would be desirable to include in the subject text general criteria for triggering a question on whether a reclassification of degree of development of a contracting party should be considered.

Furthermore, if a developing contracting party attains a high degree of sophistication in a given manufacturing area (e.g., Mexico in petrochemicals) with the consequence that it is fully competitive with world sources of such manufactured articles (even though it remains relatively undeveloped in other commodity areas), special and preferential treatment should not be permitted in that sector.

2.D. FRAMEWORK (GATT REFORM)

ISAC 5 agrees fully that developing countries should expect to participate more fully in the framework of rights and obligations under the General Agreement with the progressive development of their economies and improvement in their trade situation.

2. Trade Measures Taken for Balance-of-Payment and Development Purposes

ISAC 5 endorses the principles stated in the preamble and agrees generally with the other issues relating to measures taken for balance-of-payment purposes.

ISAC 5 agrees in principle with the issues relating to safeguards for development purposes, but feels that language of Paragraph 2 should be more restrictive and that review by GATT of the effect of the procedure of Paragraph 2 should occur no later than five years after implementation.

3. Notification, Consultation, Dispute Settlement and Surveillance

ISAC 5 is in general agreement with this proposal.

2.E. GOVERNMENT PROCUREMENT

Increasing government ownership and direct involvement in the productive capacity of basic chemicals is of concern to the industry. Accordingly, the Committee believes this code is a step in the right direction. However, the Congress should ensure that the implementing legislation does not create a bureaucratic burden when it establishes the necessary administrative procedures to monitor and enforce the Code.

ISAC #5 has the following additional concern:

> Transparency -- Full disclosure to an unsuccessful tenderer of the name of the winning tenderer, the contract price, and other pertinent information (e.g., changes in specifications) necessary to evaluate a losing bid is absolutely essential to the effective working of the Government Procurement Code. Part VI.6., however, sets up a government-to-government mechanism to transmit such price information on the contract to the unsuccessful tenderer (rather than a direct response from the purchasing entity to the tenderer). This mechanism has the potential of imposing serious bureaucratic delays, of causing the inefficient transmission of complicated technical specifications and of adding significantly to the cost of doing business.

2.F. IMPORT LICENSING

The Committee accepts the provisions of the code. However, it vigorously opposes inclusion in the implementing legislation of any prospective authority for the President, at his discretion, to conduct auctions for licenses to import any products subject to quantitative restrictions or to international agreements.

2.H. STANDARDS

1. The Code on Technical Barriers to Trade is acceptable to ISAC #5.

2. With respect to implementing action for this code, ISAC #5 believes that either the basic legislation implementing the entire code package or the specific legislation implementing the Code on Technical Barriers to Trade must contain the following two provisions:

   a. A definitive legislative commitment to the existing private sector standards making system in the United States. Coupled with this a directive to the Administration to provide for the centralized functions required by the code in order to carry out the reporting, analytical, and informational systems obligations of this code.

   b. A definitive legislative commitment to continued and increased participation of private sector technical advisors in the dispute settlement mechanism.

3. ISAC #5 recommends that provisions of Toxic Substances Act (TSCA) Sections 5, 8, and 14 and Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Section 3C(1)(d) and 10(g) which appropriate the property of

2.H. STANDARDS

any innovator for the benefit of competitors, be suspended pending the negotiation of international agreements which will provide protection for the developers and owners of data. ISAC #5 recommends that such suspension be included in the implementing legislation.

4. ISAC #5 takes note of the fact that negotiations are needed to establish the acceptability by other countries of test data developed in the United States. ISAC #5 recommends that implementing legislation provide for negotiation by the Special Trade Representative.

2.I. STEEL

The Committee has considered the issue of steel and chooses to make no comment because the specific details of the agreement itself are not of significant importance to the chemical sector. For this reason, it does not appear appropriate to report on the agreement.

2.J. SUBSIDIES

The Subsidies Code, the legislation implementing the code, and the regulations administering the legislation are extremely important to the U.S. chemical industry. Important changes have taken place and will continue to occur in the international structure of the chemical industry. Many foreign competitors of American companies are either owned or controlled by governments. In some countries costs of raw material inputs may be determined or influenced by governments, with the resulting costs unrelated to market prices. Other forms of direct and indirect subsidization are increasing. For these reasons the chemical industry believes an effective Subsidies Code, supported by proper implementing legislation and strong administration, is essential to prevent subsidized chemicals from disrupting the U.S. market and displacing exports from the United States.

ISAC #5 believes our U.S. representatives have negotiated a useful Subsidies Code, which will prove to be particularly important in the future. In general, ISAC #5 supports the Subsidies Code provided the implementing legislation and administrative guidelines include the following provisions:

1. That the injury criteria as stated in the Senate Finance Committee version be maintained.

2.J. SUBSIDIES

2. That the occasions when the administering authority is permitted to exercise an option to discontinue investigations on acceptance of "voluntary undertakings" be carefully proscribed and limited. Industry advice should be required in the process of discontinuance and termination. Adequate Congressional oversight should be provided for any resulting "orderly marketing" types of agreements.
3. That shorter time limits are established than at present, including prompt action on provisional measures, and an overall time limit for final determination of about six months, with subsidy and injury investigated concurrently.
4. That imposition of the countervailing duty is mandatory when the requirements of the legislation have been met and the amount of such duty is equal to the full amount or total of the subsidy itself.
5. That there is provision for dealing with the complex problem of subsidy resulting from State ownership or control, including "constructed value" as one approach.

2.J. SUBSIDIES

6. That no implementing legislation is introduced or adopted that would repeal DISC or indicate any intent to repeal DISC. The legislative history should clearly state such Congressional intent.
7. That precise language is included on country of origin and transshipment to avoid circumvention of the code.
8. That responsibility for Article XVI procedures (track 2) is assigned to STR or to a new trade department if such is established. This agency should be charged with resolving each case within the time limits prescribed in the code.
9. That a directive is given to the Administration to undertake further consultations on trade distortions caused by differences in taxation systems. The legislative history should clearly state such Congressional intent.
10. That a structure for industry advice is provided in both domestic procedures and in code dispute settlement procedures.

U.S. antidumping law should be conformed to the Subsidy/Countervailing Duty legislation.

TARIFFS - GENERAL

The tariffs negotiations are of primary importance to the U.S. chemical industry. The initial tariff offers tabled in Geneva in January and April 1978 would have resulted in an inequitable and unbalanced tariff agreement in the chemical sector. U.S. chemical tariffs for example would have been cut by an average of approximately 55 percent (trade-weighted), compared to only 40 percent by the European Community.

In order to achieve the sectoral balance and equity envisaged by the Congress, ISAC #5 proposed several objectives for the Tokyo Round. The U.S. Government's subsequent adjustments of base rates and the adjustment of tariff offers have come a long way toward achieving the desired changes. The tariff offer initialled in Geneva on April 12, 1979, provides the following:

a. Less-than-formula cuts for specified petrochemical products, for other justified products and for a specified list of benzenoid products.

b. Conversion to an ad valorem basis for almost all chemical products, which will eliminate the erosion of tariff protection due to inflation.

These changes result in a decrease in the average tariff cut to about 35 percent, more equitably in line with the

reported tariff cut of the European Community's chemical sector (34 percent), as shown in the bilateral comparison in Table 1.

TARIFFS - GENERAL

TABLE 1

Comparison of Offers - Industrial
Dutiable Imports
ISAC: 5 Industrial Chemicals

	TOTAL IMPORTS $ MILL	1976 AVE	April 1979 LATEST OFFER AVE	April 1979 DEPTH OF CUT
Global				
US - World	1,329	10.6	6.8	36
EC - World	4,432	10.1	7.5	26
JPN - World				
(GATT)	1,136	10.1	5.1	49
(Applied)	1,136	6.6	5.1	23
CND - World				
(GATT)	734	13.5	6.7	50
(Applied)	734	7.1	6.7	5
US - LDC	151	7.1	4.4	38
Bilateral				
US - EC	698	11.2	7.3	35
EC - US	1,342	10.8	7.2	34
US - JPN	178	11.3	7.7	31
JPN - US				
(GATT)	427	9.1	5.0	45
(Applied)	427	5.9	5.0	15
US - CND	149	6.8	4.0	40
CND - US				
(GATT)	571	13.5	6.9	49
(Applied)	571	7.0	6.9	1

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TARIFFS - GENERAL

While the United States has negotiated the removal of the American Selling Price method of customs valuation, a number of benzenoid products have been given less-than-formula cuts. This provision plus the other provisions in the total U.S. tariff package have resulted in an agreement which can generally be supported by the Committee.

There are still a number of remaining policy and procedural questions related to the tariff negotiations. ISAC #5 is seriously concerned that they be resolved in a fair and effective manner:

1. Implementation. No tariff reduction should be implemented unless the entire package of codes is approved and implemented by Congressional action.
2. Rounding. ISAC #5 unanimously urges that the tariff rates listed in the initialled offer should not be rounded in any way. The tariff rates should be kept at the negotiated levels, that is, to the nearest 0.1 percent, to avoid any further reductions due to rounding.
3. Staging of Tariff Cuts. The ISAC supports the progressive staging of tariff cuts over an

8-year period. The EC has proposed a "conditional" interruption of tariff cuts after 5 years if economic conditions are not appropriate to further tariff cuts. The ISAC strongly urges that the United States stop any further tariff reductions, if the EC or other major trading partners stop their reductions. The United States should not implement any staged tariff reductions if the EC does not make its corresponding reductions.

4. Pending Offers to the Less Developed Countries. ISAC #5 expresses serious concern that further tariff cuts not be granted to LDC's on those designated products which were painstakingly negotiated vis-a-vis the major trading partners. This concern also includes those chemical products on which justification regarding import sensitivity were submitted to the OSTR.

5. Foreign Tariffs. In evaluation of the result of tariff negotiations, it should be noted that some countries (e.g., Canada and Japan) apply rates of duty significantly lower than those bound under

the GATT. Their tariff offers lower the bound rates significantly but may not reduce the applied rate. Since the applied rates could be returned to the bound rates at any time, reduction of bound rates to or below applied rates represents a potential gain rather than an immediate real gain.

Monitoring and Investigation Information. The effects of the negotiations need to be monitored closely not only by the chemical industry but also by the U.S. Government. The trade package is intended to promote U.S. exports, but it is vitally necessary to determine if this negotiated package has excessively injured segments of the U.S. chemical industry.

The USITC Report on Synthetic Organic Chemicals Production and Sales and the Report on Imports of Benzenoid Chemicals and Products are the only statistics published which provide detailed product information. It is the principal source of all basic studies in the chemical industry and provides in the USITC staff and resources that are invaluable

TARIFFS - GENERAL

for evaluating subsidies/countervailing duty and safeguards issues which are sure to result from the negotiated codes.

Because of this, ISAC #5 recommends and strongly urges the Congress to authorize and fund the continuation and improvement of the two principal statistical programs conducted by the USITC in the chemical industry; namely, the Synthetic Organic Chemicals Production and Sale Report and the Report on Imports of Benzenoid Chemicals and Products.

New Tariff-cutting Authority. The President has requested and the Senate Finance Committee has agreed to include new tariff-cutting authority in the trade legislation which will provide the President with the same tariff-cutting authority that is presently provided for in Section 101 of the Trade Act of 1974. The new authority would permit the President to cut the newly negotiated tariff by an additional 60 percent. Such request seems totally unwarranted and unnecessary. The

TARIFFS - GENERAL

Trade Act of 1974 in Section 124 provides the President sufficient "housekeeping" tariff-cutting authority.

The Committee strongly urges elimination of this new trade negotiating authority.

TARIFFS - THE AMERICAN SELLING PRICE (ASP) PACKAGE

The value of the ASP system is well documented in the history of testimony and briefs presented by the industry at hearings of the Congress, the Office of the Special Trade Representative and the United States International Trade Commission. The arguments on the value of ASP to the benzenoid chemical industry presented in these documents are as valid today as they were in the past.

A very substantial part of the tariff negotiations in the benzenoid sector is directly linked to the compensation the benzenoid chemical industry should receive for the elimination of ASP. The exceptions and less-than-formula cuts which were ultimately negotiated represent the barest minimal payment for the elimination of ASP.

The Conversion

Two aspects of the ASP conversion are reviewed: The separation of competitive products and non-competitive products and the schedule of converted rates.

a. The conversion with respect to the separation of competitive products from non-competitive products was generally accepted by ISAC #5. There was, however, a notable exception. Competitive and non-competitive products were combined in several TSUS

classifications. They were combined because the converted rates were similar. The objective for segregation of competitive from non-competitive products was to address tariff-cutting priorities differently. STR was advised of this deficiency in the conversions but did not authorize the ITC to revise the conversion. ITC was asked to revise the conversion but could not without authorization from STR. As a result, the tariff rate of a number of competitive products was given greater-than-formula cuts.

The Schedule of Converted Rates

The schedule of converted rates on instructions from STR was converted by ITC based on the value of imported products. If no products were imported for a TSUSA category in the established base period, the statutory rate was substituted for a converted rate.

Segments of the benzenoid industry were given the opportunity to review the conversion, and some corrections were made. However, the full impact of the conversion will not be understood by the industry until the initialled ASP Tariff

TARIFFS - THE AMERICAN SELLING PRICE (ASP) PACKAGE

Package is released to the industry to review in the context of the tariff reductions. ISAC #5 recommends the immediate publication of the package for industry review.

TARIFFS - DYES AND ORGANIC PIGMENTS

The United States is reducing duties on dyes and organic pigments from an average 23.4 percent (converted to "transaction value" from an ASP valuation basis) to 14.5 percent, an average reduction of 38 percent. The United States reduction comprises a "full-authority" 60 percent reduction on non-competitive dyes and organic pigments (imported but not manufactured domestically in 1976), and reductions ranging from 0 to 40 percent (predominantly in the 28-40 percent range) for dyes and organic pigments manufactured domestically. This action is only modestly responsive to the industry request for full exception of highly import-sensitive dyes from duty reduction.

EEC will reduce duty on dyes from an average duty of 10 to 6.2 percent, a reduction of 38 percent. Japan will reduce the average applied rate of 10 percent (base, 12.5 percent) to 5.8 percent, a reduction of 42 percent on the applied rate and 54 percent on the base rate. Canada's statutory duty on dyes is zero.

The EEC will reduce duty on organic pigments from an average duty of 14 percent to 10 percent, a reduction of 29 percent. Japan will reduce the average applied rate of 10 percent (base, 12.5 percent) to 5.8 percent, a reduction of

TARIFFS - DYES AND ORGANIC PIGMENTS

42 percent on the applied rate and 54 percent on the base rate. Canada's statutory duty on organic pigments is currently a 15 percent average rate. The reduction to 12.5 percent amounts to only a 17 percent reduction. Phthalocyanine pigments currently enter Canada on a duty free status, quinacridone pigments at 5 percent. The proposed rate of 12.5 percent reflects an increase in the effective duty rate for the latter two products.

The above agreement on dyes and organic pigments is acceptable only in the context of the full agreement on chemicals.

U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
DRUGS, SOAPS, CLEANERS, AND
TOILET PREPARATIONS
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #6)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 26, 1979

Howard L. Binkley
Chairman
ISAC #6

REPORT TO THE PRESIDENT OF THE UNITED STATES AND MEMBERS OF CONGRESS

BY THE

DRUGS, SOAPS, COSMETICS AND TOILETRIES INDUSTRY SECTOR ADVISORY COMMITTEE ON TRADE NEGOTIATIONS

The Drugs, Soaps, Cosmetics and Toiletries Industry Sector Advisory Committee on Trade Negotiations commends the office of the U.S. Special Trade Representative for the excellent system employed in gathering relevant trade information and the interpretative and negotiating procedures followed in the Tokyo Round of the General Agreement on Tariffs and Trade. The inclusion of non-tariff measures and anticipated success in most, if not all, of these areas of negotiation demonstrates clearly the significant leadership in these important deliberations provided by the United States and its negotiating team.

The Committee generally agrees with the thrust and basic elements of the proposed agreements. In the broader perspective, we believe that the multinational trade agreements will promote the economic interests of the United States, as long as we as a Nation are encouraged to be innovative and to be aggressive in export activity as well as in multinational business generally. Crucial supportive adjuncts to the trade agreements which the Government must address, if the United

States is to be successful in the global competitive commercial arena, are the need to enhance efforts to improve research output, raise productivity, and decrease tax and regulatory deterrents to international commercial enterprise.

As well, the Special Trade Representative's positive effort to provide for open and candid discussion of trade and non-tariff measures between the government on one hand and industry, labor and agriculture on the other has contributed substantially to the success of the current negotiations. Yet, much needs to be done on both sides in the future, if we are to achieve the single-minded cooperative approach to trade expansion evidenced by several of our major trading, and competing, partners. In the United States, the government in general still tends to act as if suspicious of business. There is a real need to build understanding and to ally government and industry in a cooperative endeavor to achieve common economic objectives. The present STR-Advisory Committee construct is a step in that direction.

The industries represented by the Advisory Committee are well oriented to furthering international commerce. The pharmaceutical industry, in particular, generated a trade surplus of close to $1 billion per year. Much of this

positive contribution to the U.S. balance of payments is supported by direct investment in operations abroad. Most investment in plant and equipment outside our own borders is necessitated by special requirements of foreign nations designed to control drug production and sale within their boundaries. Additionally, the export balance is multiplied substantially by inflowing payments to the U.S. companies for transfer of technology, royalties and the like. Insofar as the pharmaceutical industry is concerned, the Committee is concerned that it is not at all clear that the proposed agreements provide for continuation of the favorable situation currently obtained. For example, to include royalties and other items in determining transfer price will adversely affect our ability to maintain a viable export policy on some products. Also, we are not able to forecast how much more competitive imports will be expanded as U.S. barriers are lowered. We are given some vague assurance that more foreign government procurement will be available to us, but this could be more than offset by an expansion of imports by the traditionally more transparent U.S. and local governmental procurement procedures.

As the United States moves towards final approval of an agreement, there are many unanswered questions. Is there to

be an active, strongly supportive mechanism established, for example, in a new Department of Trade and Investment or in the Treasury Department, to deal promptly with grievances on such matters as dumping? If we have a problem related to exporting, for example, an "uplift" issue with France, does one go to the French Government or will the U.S. Government actively intercede? How does one obtain timely intercession on your behalf with regard to any export-related issue?

The following comments relate to specific aspects of proposed non-tariff measures about which we are concerned.

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1.A. AIRCRAFT

The Committee has considered the issue of Aircraft and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the Committee prepares its final report under Section 135(e)(1).

2.B. COMMERCIAL COUNTERFEITING

This ISAC strongly supports a Commercial Counterfeiting Code. Because of the present status of the negotiations with respect to this Code, specific comments concerning its content cannot be made. However, general comments are appropriate with the caveat that modifications, revisions and/or a more detailed analysis may be made after a Code is negotiated.

In the pharmaceutical field, many well-known products go off patents each year. At such times, competitive entry into the market is appropriate. However, competitors, while able to provide generally equivalent products, should not be permitted to offer their ware in forms and packages that are indistinguisable from the innovating producers. Manufacturers' identity need to be maintained to assure traceable quality verification, as well as to assure equity in the marketplace. We recommend that the position of the United States, which currently has proposed to limit counterfeiting protection only to trademarks and tradenames, be expanded to cover protection for originators' designs and models.

The Advisory Committee supports the basic U.S. position that the sanction for violation of the Code should be forfeiture of the goods in question. Commercial counterfeiting is a deliberate act whose objective is to deceive the consumer. Permitting the counterfeit goods to remain in

2.B. COMMERCIAL COUNTERFEITING

existence will only shift the problem from one country to another since the counterfeiter will surely attempt to sell these goods elsewhere. More important, however, is the fact that unless the consequences of being caught attempting to import counterfeit goods are extreme, there will be little disincentive to attempt to import such merchandise. Therefore, forfeiture of counterfeit goods must be a sanction which can be imposed.

The definition of "counterfeit merchandise" should be much broader than articles to which a spurious trademark or tradename has been affixed or applied. We suggest that future negotiation expand the definition on counterfeit merchandise to include design, models, copyrights and articles which simulate in color, size, and shape articles sold by trademark and tradename with the intention that these look-alike articles be substituted without the knowledge of the consumer. This latter category of counterfeit merchandise is especially relevant to prescription pharmaceutical products. A consumer will receive a prescription from a physician and take it to a pharmacy to be filled. The prescription will often be written for a product sold by trademark and tradename which can be identified by its color, size and shape.

2.B. COMMERCIAL COUNTERFEITING

While it may be permissible to substitute another product for the product sold by trademark and tradename, unless the substituted product is of a different color, size and/or shape, the consumer has no way of independently knowing that a substitution in fact has been made. This is especially true where a large part of the consumer population is illiterate. Unfortunately, there have been many instances where a manufacturer deliberately copies the color, size and shape of a product sold by trademark and tradename with the intention that this look-alike product be sold as a substitute without the knowledge of the consumer. This practice, in our opinion, constitutes commercial counterfeiting and, therefore, should be covered by the Code.

2.C. CUSTOMS VALUATION

We are concerned that the benefits currently provided to U.S. manufacturers of Benzenoid chemicals under the American Selling Price (ASP) system of valuation may be lost in the proposed conversion to equivalent ad valorem rates. We urge that manufacturers' representations of the actual effects of ASP on specific products be evaluated along with groups of products assembled within TSUS classifications. The duties on specific products which are substantially affected by ASP may not be adequately converted to ad valorem equivalent (A.V.E.) rates by use of TSUS classifications.

We are also concerned about the proposal to include in customs values, under Article 1 of Part 1, the amount of royalties or service fees determined by subsequent sales. Royalties, often payable to independently owned licensors, are customarily determined by the amount and timing of events unrelated to importation of goods. Furthermore, important differences may exist between the form and content of the imports and the final finished products, the sales of which are subject to royalty. Service fees, as for distribution or marketing functions, do not contribute to the value of the imported product and customarily occur at dates well removed from the time of import.

We are in agreement with the "hierarchical" approach to alternative values when sales are made to related parties. While we are in general agreement with the declaration that

2.C. CUSTOMS VALUATION

the importer has the option of using either the fourth or fifth methods for arriving at customs value, as described in Part 1, Article 4, we should emphasize that in our industry large aggregates of costs and functions, relating primarily to research and marketing, cannot be objectively allocated to specific products. Consequently their use in establishing transfer prices for customs purposes in both the "deductive" and the "computed" values may be wholly inappropriate.

The Code as drafted properly provides that royalties should be part of transacting value when those royalties are related to the goods being valued. Thus, a buyer and seller may not allocate a purchase price between a price for the goods and a royalty in order to avoid the payment of duty. However, Article 1.1(b) and (c) and Article 8.1(c) may possibly be interpreted as adding to transaction value royalty payments not only on the goods imported but also on those goods after transformation into another product in the United States. This Advisory Committee objects to the latter interpretation and strongly urges that the legislative history make it clear that royalties will be added to transaction value only when those royalties are payable on the goods imported prior to substantial transformation and based on the imported values.

2.C. CUSTOMS VALUATION

In the pharmaceutical industry, it is common practice for a foreign pharmaceutical manufacturer without a marketing and sales organization in the United States to license a patented compound (active ingredient) to a domestic pharmaceutical manufacturer. In order to sell that patented compound (active ingredient) in the United States, the domestic pharmaceutical manufacturer must pay a royalty based upon net sales of the compound not as an active ingredient but as a finished product. The domestic pharmaceutical manufacturer ordinarily has to clear the compound as a finished product through the Food and Drug Administration (FDA) prior to marketing. This is a long, complicated process which can take as long as a decade to complete and cost a substantial amount of money (typically millions of dollars).

Because one may not with certainty predict what claims the FDA will permit for the product in advance of final clearance, very few companies are willing to risk a paid-up license for sale of the product. Typically, a licensing arrangement based upon net sales is agreed upon in order to minimize the uncertainty of future success. If the product is marketed successfully, the licensor and licensee both

2.C. CUSTOMS VALUATION

benefit. If the product is not successful, the licensee has at least minimized the cost of obtaining marketing rights. This particular arrangement is an independent transaction agreed upon in advance of deciding where to source the compound (active ingredient) for the finished product cleared through the FDA.

Because the foreign pharmaceutical manufacturer is selling the compound as a finished product in other countries, it often is the best source of supply for the compound (active ingredient). The licensee may elect to manufacture the compound (active ingredient) or purchase it from the foreign manufacturer. If the latter transaction is entered into, it is an arm's length agreement which is independent of the agreement requiring royalties for sale of the finished product in the United States. What is being purchased is a compound (active ingredient) which is imported but not sold.

After importation, the compound (active ingredient) is transformed into a finished saleable product by the licensee. This involves an extensive amount of further manufacture and packaging. The process can extend over a considerable time. Once the finished product is sold, a royalty becomes due.

2.C. CUSTOMS VALUATION

There is often no relationship between the price paid for the compound (active ingredient) which is imported and the royalty due on the finished product. There has been transformation of the compound (active ingredient) into another article with a substantial amount if inactive ingredient, compounding and other items adding to the value of the compound. Further, there is no direct relationship between the amount of compound (active ingredient) imported and the total royalties due because the sale of the product will depend not only upon its pharmacological and therapeutic activity but also the amount of marketing, sales and service required to promote and distribute the product.

This Advisory Committee therefore, believes that once an imported compound (active ingredient) is substantially transformed, any royalty paid on the transformed product is not "related to the goods being valued" (Article 8.1(c)). We believe that the legislative history should make this clear and, thereby, avert a potential serious dispute over the royalty provisions by the pharmaceutical industry.

2.D. FRAMEWORK: REFORM OF THE INTERNATIONAL TRADING SYSTEM

Consultation, dispute settlement, and surveillance procedures under the GATT pervade every area of the Tokyo Round negotiations and, therefore, will have an extremely important role in the future if the understandings and agreements reached through negotiation are to be implemented and effective. Recognizing that the agreements reached are not intended to specify how each country is to mechanically implement its respective role in dispute settlement procedures, it is an absolute necessity that the U.S. Government reorganize and/or appoint a specific consulting agency or agencies within the U.S. bureaucracy with whom U.S. exporters may consult with respect to their grievances.

The Committee believes that reforms in the international trading system continue to be needed and that this should be an ongoing process. Improvements in the framework call for constant discussion and adaptation. We strongly recommend that a well-staffed functioning organization be established and maintained within the U.S. Government to address such issues in the interim between GATT rounds.

2.E. GOVERNMENT PROCUREMENT

Government procurement is an important Code for ISAC #6 in part because increasing government involvement and ownership in hospitals and medical care supply programs abroad tend to distort international trade in pharmaceutical and related products. While the present draft code is a step in the right direction, ISAC #6 has the following major concerns:

A. Definition of Government Entity - A clear definition is needed in order to include not only fully governmentally-owned and operated entities but also those which are only partially owned by government, and whose purchasing is subject to control by the national government. The proposed lists of entities to be supplied under Annex I of the code should be broadened.

B. Coverage - There should be clear criteria in the Code to establish conditions under which additional entities ought to be covered by the Code in the future.

C. Two-Tier Threshold - ISAC #6 continues to urge a threshold in the range of $50,000-$150,000 per year. Shipments of pharmaceuticals to hospitals, for

example, involve a wide range of products used in small quantities, yet require coverage under the Government Procurement Code. For the future, a two-tier threshold would be useful to permit coverage for industries which operate in this range.

D. Transparency - Full disclosure to an unsuccessful tenderer of the name of the winning tenderer, the contract price and other pertinent information, e.g., changes in specifications necessary to evaluate a losing bid is absolutely essential to the effective working of the Government Procurement Code. Article VI-6, however, sets up a government-to-government mechanism to transmit such information to the unsuccessful tenderer (rather than a direct response from the purchasing entity to the tenderer). This mechanism has the potential of imposing serious bureaucratic delay, of causing the inefficient transmission of complicated technical specifications and of adding significantly to the cost of doing business.

The Congress should ensure that the implementing legislation does not create a bureaucratic burden,

when it establishes the administrative procedures to monitor and enforce the Code.

Indeed, the STR should continue to press for clarifying language in the Code stating that the general intent is to provide direct disclosure from purchasing entity to tenderer and that the exceptions involving possible prejudice in future tenders should be held to a minimum and be subject to full justification by the purchasing government.

E. Implementation - There will be many technical and commercial questions raised as the new Code is implemented. ISAC #6 strongly urges private sector input, through advisory committees for the responsible Federal agencies, at least during the first few years of operation.

2.F. LICENSING

Inasmuch as the U.S. import (not export) licensing experience of our members has been generally good, we support the proposed modifications of our trading partners' systems, as they are patterned after ours. It is also important to note that our members' experience in "sensitive payments" has been that the most frequent form of minor extortion efforts by low-level ministerial employees is in customs clearance. Therefore, we urge that the licensing code be rewritten to substantially reduce the risk of this kind of extortion, and that reports of such practices be permitted under the disputes section. We note that inappropriate use of licensing requirements that may impede the flow of international trade are discouraged. We support this condition.

2.G. SAFEGUARDS

We accept the language of Chapter 1 of this code which limits safeguard actions to only those following a determination by domestic authorities that particular imports are causing or threatening to cause serious injury to domestic producers of like or directly competitive products. We also agree that such determinations should be made on positive findings of fact. We are concerned however, that the transparency and often adversary nature of U.S. proceedings of this kind may not be duplicated in other countries (Chapter 2) where a much closer and more supportive role is played by governments on behalf of local industries. We urge the U.S. negotiators to press for commitment by our trading partners that their investigations, determinations and proceedings be made sufficiently transparent that their objectivity will not be in doubt. We are especially concerned that the language "Pursuant to domestic procedures previously established and made public" not be interpreted to mean that the requirements are met when the procedures previously established have been made public, rather than upon completion of the actual investigation and determinations, in specific instances calling for imposition of countervailing measures.

2.H. TECHNICAL BARRIERS TO TRADE - STANDARDS

We note that the code's provisions emphasize new and revised standards and certification systems but provide a mechanism for challenging existing practices and standards that are unreasonable barriers to trade. Because of the special significance of this code to our industries, we urge that the technical committee and its appropriate ad hoc panels readily accept representations from U.S. companies concerning existing standards in the drug and medical supply field which have the effect of unreasonably restricting access to national markets. Such standards include the refusal of some governments to accept clinical data and evaluations from qualified investigators in other countries, thereby delaying or foreclosing entry of foreign manufactured drugs into national markets.

We welcome the proposed establishment of the Committee on Technical Barriers to Trade provided that such a committee is adequately supported by working bodies, panels and other bodies which are sufficiently knowledgeable in the specific scientified and other disciplines needed to assure that the committee's action is adequately supported by fact.

We also urge that countries choosing to exclude standards from the restrictions of this section by reason of the need to

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protect human, animal or plant life or health be required to bear the burden of proof that such exclusion does not constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail nor are a disguised restriction on international trade.

2.I. STEEL

The Committee has considered the issue of Steel and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

country or not. For example, in Puerto Rico and Ireland subsidies are available to foreign-based companies. If such subsidies were prejudicial only to companies or industries which reside in the country providing that subsidy, we would not support this section of the code.

2. Timely enforcement of the codes - as written the codes stipulate a time limit for handling complaints as well as provisional measures which can be used during a period of investigation. Such measures deserve strong attention since untimely handling can in effect be an unnecessary barrier to trade.

NON-TARIFF MATTERS NOT DEALT WITH MULTILATERALLY

The Committee has considered the issue of non-tariff matters not dealt with multilaterally and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the Committee prepares its final report under Section 125(e)(1).

OTHER TARIFF MATTERS

The Committee has considered the issue of other tariff matters and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

AGRICULTURAL TRADE MATTERS

The Committee has considered the issue of agricultural trade matters and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

AFFECTED LEGISLATION

The Committee has considered the issue of "Affected Legislation" and believe that it is premature to discuss this complex subject in this preliminary report.

TARIFFS

The Committee has reviewed the U.S. and foreign tariff offers and notes that generally U.S. tariff cuts were deeper than those of our major trading partners. Average duties are now the lowest among the four major developed countries. Specifically, in lieu of a formula cut, the ISAC opposed the duty elimination on synthetic detergents and is distressed by certain Japanese and European exceptions (e.g., caffein, penicillin). While the ISAC feels more equitable treatment could have resulted from the negotiations, it does not oppose the tariff agreement.

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
PAINTS, GUM AND WOOD CHEMICALS, AND MISCELLANEOUS PRODUCTS
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #7)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 25, 1979

E.P. van Heek
Chairman, ISAC #7

1. OVERALL

The ISAC is impressed with the various codes even though many remain to be completed and generally believes the negotiations will result in tangible benefits for the U.S. if these codes are adopted. The codes will benefit American traders and traders the world over. ISAC is pleased with U.S. Government response to and acceptance of most of its advice in the code areas and appreciates the efforts to achieve uniformity, simplification, openness, full disclosure and new mechanisms for dialogue and dispute settlement and hopes Congress will be impressed as well.

2.C. CUSTOMS VALUATION

ISAC notes simplification of customs valuation procedures is beneficial but feels part of the code is somewhat confusing, especially paragraph 2 of section II on page 2 regarding additions to transaction value.

Other valuation alternatives seem to be straight forward and are acceptable.

ISAC believes that the U.S. Government should have pursued conversion of FOB to CIF valuation for the purpose of standardization. ISAC would prefer worldwide adoption on an FAS basis.

2.D. FRAMEWORK

TSAC notes the progress made in the Framework area.

2.B. COUNTERFEITING

The ISAC has no known problem with counterfeit goods being exported from one country to the other but expressed concern about trademark registration and practical enforcement of trademark registration and possible counterfeit use within a market where export use had enhanced the value of that trademark. This particular problem however is beyond the scope of the code. The ISAC expressed concern about business ethics especially in LDC markets.

2.E. GOVERNMENT PROCUREMENT

ISAC applauds opening of all avenues of trade including Government Procurement. There was strong feeling within the group that every precaution should be taken to make sure the U.S. does not give away more than it gets.

2.F. IMPORT LICENSING

ISAC supports all efforts to eliminate licensing procedures which serve as barriers to trade but recognizes that much import licensing stems from LDC efforts necessary to control balance of payment problems by restricting imports.

Pressure should be applied to make sure more developed LDCs are signatories; notably: Mexico, Brazil, Argentina, Colombia, Taiwan and Korea.

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2.G. SAFEGUARDS

The ISAC had traditionally supported the American safeguards approach and recognizes the need for such is unlikely to soon disappear.

2.H. STANDAPDS

Members applaud efforts to achieve uniformity in world standards in areas where it is necessary and support complementary efforts to minimize proliferation of standards, particularly those designed as barriers to trade.

2.I. STEEL

The committee does not wish to comment on the steel agreement.

2.J. SUBSIDIES

The ISAC has pushed for the retention of DISC throughout the ISAC program and appreciates the fact that adherence to the code will not require its dismantling. Consensus of ISAC has been that DISC is an important export incentive rather than an export subsidy and would feel that subsidy is a non-American tool for promoting exports. Again, ISAC cautions the government not to give up more than we get.

3. TARIFFS

With respect to the tariff negotiations, the ISAC reviewed the U.S. and foreign offers and recognized that this ISAC yielded more than it received as far as depth of cut and new average tariff levels. It is hoped that ISAC reductions were offset by greater benefits accruing to other ISAC's.

The U.S. gelatin industry had hoped for dramatic reductions in tariffs from its major trading partners in order to increase the potential for products made in the United States. Unfortunately, all the tariffs on gelatin items remained status quo. Thus, the United States continues to be at a disadvantage with its trading partners due to low U.S. tariffs, especially when compared with the tariffs of the EEC and Japan. We look forward to the next round of tariff negotiations to remedy this imbalance.

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON RUBBER AND PLASTICS MATERIALS FOR MULTILATERAL TRADE NEGOTIATIONS (ISAC #8)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

MAY 7, 1979

W. F. Christopher

William F. Christopher
Chairman, ISAC #8

Donald G. Brotzman

Donald G. Brotzman
Vice Chairman, ISAC #8

1. OVERALL

ISAC 8 has participated actively in the advisory process for the Rubber and Plastics Industry and submitted its recommendations and evaluations to government over the extended period of the negotiations. Evaluating now the final results based on information available at this time, on balance we believe that the agreement will accomplish acceptably the objectives of the Trade Act of 1974 for our sector, providing:

(1) That both the tariff and NTM agreements are put into effect.

(2) That a structure is provided that will assure industry advice and industry involvement in the administration of the NTM codes and their implementing legislation and regulations, and in the dispute settlement procedures in GATT.

(3) That implementing legislation clearly assign responsibilities to an administrative home in government that can carry out the responsibilities, and integrate and coordinate the related work of other government agencies.

(4) That there is a commitment by Congress and the Administration to undertake further consultations on trade distortions caused by differences in taxation systems.

2.A. AIRCRAFT

ISAC 8 approves the Aircraft Agreement, particularly as it applies to rubber and plastics products included in aircraft.

2.B. COUNTERFEITING

ISAC 8 supports the Counterfeiting Code.

2.C. CUSTOMS VALUATION

ISAC 8 accepts the Valuation Code and implementing legislation.

2.D. FRAMEWORK

ISAC 8 supports the Framework Agreement with regard to developing countries.

ISAC 8 believes it is important that these countries be brought more fully into the GATT system. The new GATT provisions spell out the obligations of developing countries to assume fuller GATT obligations as their economic development progresses. In evaluating a developing country's economic development, ISAC 8 recommends that a sectoral approach rather than the overall country's development progress is the more appropriate level for graduation evaluation. We believe this formal setting-forth of the rights and obligations of developing countries is a needed step in bringing developing countries into the trading system.

2.E. GOVERNMENT PROCUREMENT

ISAC 8 finds the Code on Government Procurement satisfactory with the exclusion of Japan from its benefits.

ISAC 8 finds no significant problems with the implementing legislation as currently proposed.

2.F. IMPORT LICENSING

ISAC 8 accepts the provisions of the code. It opposes vigorously inclusion of any prospective authority for the President at his discretion to conduct auctions for licenses to import any product subject to quantitative restrictions or international agreements.

2.G. SAFEGUARDS

Effective safeguards are vitally important to the Rubber and Plastics industry. Our recommendations for the code and legislation have been submitted in earlier reports. Since a code has not yet been agreed to, there is no requirement for trade agreement legislation on safeguards. ISAC 8 however supports changes in present U.S. law to speed up safeguard actions.

2.H. STANDARDS

(1) The Code on Technical Barriers to Trade is acceptable to ISAC 8.

(2) In respect of U.S. implementing action for this code ISAC 8 feels very strongly that either the basic legislation implementing the entire Code package or the specific legislation implementing the Code on Technical Barriers to Trade must contain the following two provisions:

a) A definitive legislative commitment to the existing private sector standards making system in the U.S. coupled with a directive to the Administration to provide for the carrying out of the centralized functions required by the Code of reporting, translating and maintaining an information system.

b) A definitive legislative commitment to continued and increased participation of private sector technical advisors in the dispute settlement mechanism.

(3) Implication of Standards Code Involving Toxic Substances Control Act (TSCA).

ISAC 8 recommends that provisions of Toxic Substances Act (TSCA) Sections 5, 8 and 14, which appropriate the property of any innovator for the benefit of his competitors, be suspended pending the negotiation of international agreements which will provide protection for the developers and owners of data. ISAC 8 recommends that such suspension be included in the implementing legislation.

2.I. STEEL

ISAC 8 has no comment on this agreement.

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2.J. SUBSIDIES

ISAC 8 accepts the Subsidy/Countervailing Duty Code if the following key elements are included in the implementing legislation:

(1) Injury is defined as anything more than "immaterial or inconsequential," with injury criteria as stated in the Code.

(2) Industry advice is required in the process of discontinuance and termination of investigations.

(3) Shorter time limits are established than at present, including prompt action on provisional measures, and an overall time limit for final determination of about six months, with subsidy and injury investigated concurrently.

(4) Imposition of the countervailing duty is mandatory when the requirements of the legislation have been met.

(5) Specific countervailing duties presently in effect on particular products from named countries are continued under a grandfather clause to be included in the new legislation.

(6) No implementing legislation is introduced or adopted that would repeal DISC or indicate any intent to repeal DISC.

(7) There is provision for dealing with the complex problem of subsidy resulting from State ownership or control, including "constructed value" as one approach.

(8) A structure for industry advice is provided in both domestic procedures and in Code dispute settlement procedures.

U.S. antidumping law should be conformed to the Subsidy/Countervailing Duty legislation.

3. TARIFFS

A. Basic ISAC 8 Objectives

To accomplish the objectives of the Trade Act of 1974 for the rubber and plastics industries represented by ISAC 8, regarding tariffs, the following conditions are of significant importance:

For plastics materials--reduction or elimination of present disparities with EC, the largest producer and the largest exporter of these products.

For tires and tubes--little or no cuts in present low U.S. tariffs with reductions in tariffs of the other major countries to U.S. levels.

For rubber footwear--with 70% of the U.S. market now lost to foreign competition, maintenance of present level of tariff protection.

For bicycle tires and tubes--exception from tariff cuts to permit the one remaining U.S. producer to continue in business.

For hose and belting--anything more than a formula reduction to the U.S. tariff would work a severe hardship on the industry; also trading partners' tariffs should be harmonized with ours.

For rubber sundries--any reduction in the U.S. tariff should be no more than formula and harmonized with our trading partners.

For all ISAC 8 products--tariff treatment as recommended in ISAC 8 reports which embody the following principles.

B. Negotiating Principles

To achieve equity in tariff rate reductions among the industrialized countries of the world for all rubber and plastics products, ISAC 8 urged STR, DOC, and our negotiators to following certain basic principles:

-- use zero tariff authority only on reciprocal basis;

3. TARIFFS

-- seek reciprocity in valuation matters insuring that we receive a fair and equitable conversion rate if we are required to relinquish ASP or Final List;

-- resist anything greater than a formula cut in our tariff reductions;

-- harmonize trading partner tariffs with our tariffs to remove existing disparities; and

-- withdraw our offer, if a trading partner withdraws its offer.

This report compares the results of the tariff agreement as presented to ISAC 8 as of this date with the objectives and principles set out above.

C. Plastics Tariffs

For the U.S. plastics industry, the U.S. tariff agreements represent significant cuts in duties on imports, whether one considers the whole industry, the resins segment, or the fabricated products. Our major trading partners have also made substantial reductions; Europe nearly the same as ours, while Canada has made much less and Japan has made larger reductions from bound rates. Disparities have been reduced except for Canada, but the U.S. rates remain below those of the EC, Japan and Canada on a trade-weighted total industry basis, either for world-wide trade or on a bilateral trade basis (cf. table).

This moves toward the establishment of substantially equivalent competitive opportunities, but cannot achieve it unaided. The use of c.i.f. valuation gives our trading partners 10-20% more protection on a unit basis. Classification differences make product rate disparities appear greater or less than the overall figures show. Future relative changes in petrochemical raw materials costs will penalize the U.S. more than our major trading partners. These, and other influences, impede achievement of the objective of substantially equivalent competitive opportunities by tariff rates alone.

3. TARIFFS

In the future, bilateral comparisons of rates with countries other than our current major trading partners will be of greater importance, but these comparisons cannot be made in detail for many countries now. Current levels of trade are not now great, but increases are inevitable.

The ASP conversion was made more equitable by the expansion of TSUS 405.25 into several lines. The ability to make reductions first in the specific portion for most lines has simplified the conversion to ad valorem duties and the specific portions for the unconverted lines are reduced to minor or insignificant levels. This we find satisfactory.

Our negotiators considered our advice, and in many instances of hardship and priority considerations, were able to achieve our recommendations. Recommendations of lower priority and lower economic impact could not be reached. Others were not attempted for negotiating reasons. Our latest recommendation to ignore rounding cannot yet be acted upon. Staging plans and implementation should be comparable with those of our major trading partners.

Plastics Tariffs Average Rate

Trade Weighted by 1976 World Trade

	1976	Formula Cut $\left(\frac{14X}{X+14}\right)$	Original Offer	Agreement	
				Average Rate	Cut
U.S.	9.7%	5.7%	4.0%	5.6%	42%
EC	16.2	7.5	8.0	10.2	37
Japan: Bound Rates	11.6	6.2	6.[illegible]	6.4	45
Applied Rates	9.4	5.5	6.[illegible]	6.4	32
Canada: Bound Rates	14.9	7.2	11.3	11.8	21
Applied Rates	11.8	6.4	11.3	11.8	0

3. TARIFFS

D. Rubber Tariffs

1. Tires

Bicycle tires and tubes have experienced drastic import penetration to the extent that there is only one bicycle tire manufacturer operating in the United States. Import penetration is over 80% in the bicycle tire industry. The United States tariff was left at the current rate of 5% on tires and 15% on tubes.

Airplane tires as a part of the Aircraft Agreement are free to the U.S. and to our trading partners.

Other pneumatic tires are of major concern to our industry. Imports have been rising steadily in passenger, truck-bus, and off-the-road tires, more than quadrupling in the last seven years. In every type of tire, imports exceed exports by more than three to one. But competitive relationships have changed. Wage costs for U.S. tire production workers are more comparable with those in foreign countries. Given the high volume and production efficiencies within the U.S. and the narrowing of wage differentials, for the first time the possibility of increased U.S. tire exports exists, provided tariff and non-tariff barriers do not stand in the way. For the first time there is a real chance to reduce the trade imbalance on tires and rubber goods.

To the credit of STR and its negotiators and the Department of Commerce, we received a 1.7% credit for relinquishing Final List so that when the percentage reduction was applied, the U.S. tariff remained at 4%. In addition, our trading partners' tariffs were harmonized with ours to partially remove disparities.

3. TARIFFS

2. Hose and Belting

There has been a pattern of increasing imports of hose and belting over the last five years. Total imports of these products have grown from $37.1 million during 1973 to $80.4 million in 1977, an increase of 117%.

In hose, generally the tariff agreement calls for no greater than a formula cut in the U.S. tariffs accompanied by harmonization of our trading partners' tariff with ours.

In belts, in most U.S. categories, there were no greater than formula cuts applied. Our negotiators adjusted an initial greater than formula offer of 2.4% to 4% on TSUS 773.35. Unfortunately, the U.S. offer for TSUS 358.16 (other belts) was a greater than formula cut, and the European Community withdrew its offer on conveyor belts, with no EC duty reductions on this commodity. This was a matter of great concern to ISAC 8 during the negotiations, and could be a significant problem for our industry.

3. Rubber Drug Sundries

For the last seven years, there has been a significant increase in the level of rubber drug sundries products being imported into this country. This poses a serious threat to the domestic manufacturers of these products. For example, the dollar value of imports in TSUS category 709.09 has grown at an annual rate of 9.9% since 1972. During the same period, the value of imports for TSUS category 772.4200 has reached an annual growth rate of 15%. These rates are based upon actual figures through August 1978 and a projection of imports for the last quarter of the year. Generally the agreement calls for no greater than a formula cut in the U.S. tariffs accompanied by harmonization of our trading partners' tariffs with ours.

3. TARIFFS

A variety of rubber molded and extruded goods is classified under TSUS 774.6040 (Articles of Rubber and Plastics - not specifically provided for). The increase in imports into the U.S. in this category is comparable to that noted above. The current U.S. import duty on these molded and extruded goods is 8.5% ad valorem. The formula cut on these items brings the proposed rate to 5.3% which is what has been offered by the U.S. Our major trading partners have also reduced their tariff rate in harmonization with the U.S. rates.

4. Footwear

In waterproof footwear, STR has shown sensitivity to the serious import penetration suffered by domestic manufacturers and has exempted the principal products of this industry from tariff cuts.

The duty on rubber soled footwear with fabric uppers has been 20% based on ASP. In the course of negotiating the valuation code, our country has agreed to eliminate ASP. During negotiations STR assured domestic industry that the conversion of ASP on fabric footwear would not result in a reduction of the level of tariff protection. STR developed a conversion formula which substitutes for ASP a series of ad valorem and specific rates based on product description and value brackets. While it is difficult to predict whether this conversion will have the intended effect of maintaining industry protection, the industry is satisfied that our negotiators have made a good faith effort to honor their commitment. For this reason, and pending future development, the industry does not object.

3. TARIFFS

E. Overall Tariff Agreement Evaluation

1. STR and the Department of Commerce have done an excellent job in permitting the industry to make its case. ISAC 8 is hopeful that a mechanism will be afforded for such relationship in the future.

2. Generally the STR and Department of Commerce have been responsive to ISAC 8 advice and have achieved our basic objectives and followed our recommended negotiating principles to an acceptable degree.

3. The overall balance of equity and reciprocity within this sector appears acceptable and we support these tariff agreements with our major trading partners on the basis of the complete package. Because of linkage to the Codes, the tariff agreement should not be implemented until Congress has approved the Codes by enactment of implementing legislation.

REPORT OF ISAC 9 WITH REGARD TO THE CODES THAT HAVE BEEN COMPLETED AND A PRELIMINARY REPORT ON TARIFF NEGOTIATIONS

Eugene L. Kilik

Eugene L. Kilik
Chairman, ISAC #9

April 25, 1979

1. OVERALL

In 1978 the industries covered by ISAC 9 accounted for a trade deficit of about $2½ billion. On the one hand, most of the industries in ISAC 9 have been cruelly buffeted by import competition while on the other, industries that are economically competitive have had their markets closed to them by high tariffs and non-tariff barriers.

Experience has shown that the unreciprocated concessions granted by the U.S. in the Kennedy Round of trade negotiations made a large contribution to the growth of the trade deficit in this sector. Specifically, while the U.S. tariff concessions in this sector in the MTN amounted to less than 5% (footwear was exempted from tariff cuts by Congressional mandate), the sector received an even lesser amount of concessions from other developed country signatories.

While this sector has the potential to gain a great deal from the trade negotiations, it is our opinion that the way in which the Executive Branch implements the rights and obligations of the U.S. under the international codes of conduct will truly determine the extent to which the position of the industries in this sector will be improved. It must further be remembered that the impact of the trade agreements will be great on this sector.

Because of the import sensitivity of most of the products of this ISAC, the following Codes have the potential to improve the position of this sector, or they may leave this ISAC in a poorer position than if the Codes were not negotiated at all: Framework, Government Procurement, and Subsidies. The legislation to implement these Codes, particularly the Code on Subsidies, will be crucial to the effectiveness of these codes.

TARIFFS

Most of the products covered by this sector are very import sensitive items. Furthermore, existing tariff rates exhibited a much lesser degree of protection for the industries covered by this sector than is the case for the tariffs of other countries. Therefore, this ISAC requested that these products be exempted from duty cuts and for a negotiated equalization in the duties of our trading partners.

While the overall U.S. tariff cut for this sector was probably less than 5%, this low number was largely due to the fact that imports of nonrubber footwear (the sector's largest item of trade) were exempted from tariff concessions because that industry had received import relief under the "escape clause" of the Trade Act of 1974.

U.S.-produced leather and footwear would have significant export opportunities if access to foreign markets was reasonably available. Unfortunately, this has not been the case and the results of the negotiations have not improved matters.

In the case of leather, the U.S. has offered a formula cut which would reduce tariffs from the existing 5% to 3½%. Our trading partners have not been so generous. Japan has offered no cuts in its existing rate of 20%, Canada has offered a formula cut to 10½% from its existing 17½%, and the EC but a 1% cut from its current 8%. With the exception of the U.S., all of these countries calculate their duties on a c.i.f. basis as opposed to the U.S. f.o.b.

TARIFFS (continued)

With respect to footwear, none of the major countries have made any cuts in their tariffs on these items. However, in contrast to existing duty rates on footwear in the U.S. of 5% to 20% and Orderly Marketing Agreements with Korea and Taiwan, Australia imposes duties of 34% and quotas, Canada 25-40% and quotas. Of the major countries only New Zealand has offered some tariff cuts on footwear.

The following countries have duties of 100% or greater on imports of footwear: Brazil, Egypt, India, Taiwan, Uruguay, Venezuela and Turkey. Countries having between 50% and 100% duties on imports of footwear are: Chile, Nigeria, Pakistan and South Korea. The following countries prohibit imports of footwear: Brazil, Chile, India, Iran, Nigeria, Pakistan, South Korea, Turkey, and the state trading countries of Eastern Europe.

This sector sadly reports that there has been no practical change on access to potential markets for those products that are competitive.

ISAC #9 notes that the Executive Branch has requested new 5-year tariff-cutting authority as part of the implementing legislation. We strenuously object to the granting of such authority until the results of the MTN have been made known and thoroughly digested. At the very least such new authorit should be considered in the normal legislative fashion, not as part of the implementing legislation.

2.A. AIRCRAFT

The Committee has considered the issue of the Aircraft Code and believe the matters covered are not of significant interest to the sector. Therefore, it is not appropriate to report on this Code.

2.B. COMMERCIAL COUNTERFEITING

This ISAC favors a counterfeiting code which is limited to coverage of trademarks and tradenames with the procedural safeguards and international surveillance and dispute settlement procedures as proposed by the United States.

This ISAC further believes that forfeiture is essential to insure effectiveness of the Code.

Since all nations will share equally in the benefits of this Code, the U. S. should not give any concessions to achieve agreement to the Code.

2.C. CUSTOMS VALUATION

The only item on ISAC #9 which is affected by this Code is footwear. This industry has opposed conversion of ASP to an *ad valorem* rate for policy reasons. However, should ASP be eliminated as a result of adoption of this Code, the *ad valorem* rates substituted (1) must provide the same level of protection as currently afforded, (2) must not be reduced during the MTN, and (3) must not be reduced during the period the Code is in effect.

SUMMARY

Granted that items 1, 2 and 3 have been acted upon favorably by the U. S. Government, this Code is acceptable to this ISAC.

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2.D. FRAMEWORK

ISAC #9 is disappointed that three subjects were not addressed in the Framework Code. These subjects are the negotiation of an international agreement on footwear as called for in Section 121(a)12, the use of deposit schemes as a method of import restriction, and negotiation of an agreement on access to raw materials under Section 108 of the Trade Act. The most critical problem facing the members of this ISAC is the excessive exportation of our basic raw material, cattle hides. The drain on our limited supply is a direct result of other nations' restrictions on the export of this commodity. The failure to assure that more hides are brought onto the world market to relieve some of the supply and inflationary aspects of this shortage situation at home threatens all domestic leather-using industries with a serious question of economic survival.

The ISAC believes that point 5, p. 1/3 is too broad -- "concessions that are inconsistent with the latter's development financial and trade needs."

Point 2B p. 2B/1 seems to be license for LDC's to take restrictive measures and is detrimental to the interests of this ISAC.

SUMMARY

The implementation of this Code is not particularly helpful to this sector. Formal recognition of the right of LDC's to take restrictive measures without accountability is particularly onerous.

2.E. GOVERNMENT PROCUREMENT

This Code makes the labor intensive products of ISAC 9, gloves, footwear, handbags, business cases and luggage, vulnerable to import competition without providing any realistic access to foreign government procurement.

The assurances given that the Berry Amendment provisions to the Defense Procurement Act will be retained for three years grants protection in some degree for some of these items. It is requested, however, that handbags be added to the list of articles subject to Berry Amendment provisions.

SUMMARY

On balance, this Code is not helpful to the products of this sector. However, if handbags are added to the list of Berry Amendment provisions, harm will be lessened. Nevertheless, items like postmen's satchels, briefcases, luggage, etc., will be subject to prompt petition from often subsidized LDC's.

2.F. IMPORT LICENSING

The Committee has considered the issue of Import Licensing Code and believe the matters covered are not of significant interest to the sector. Therefore, it is not appropriate to report on this Code.

2.G. SAFEGUARDS

ISAC #9 favors world acceptance of procedures for safeguard actions in line with those currently utilized in the United States. We have been assured, and fully support the view, that no changes in current "escape clause" procedures will occur that would make it more difficult to secure import relief than it now is. Indeed, the implementing legislation may wish to address two changes which would make the "escape clause" more effective than at present. These suggestions for improvement are attached.

The Committee supports any action that would shorten the so-called "escape clause" procedures before the International Trade Commission and the White House.

In this regard, ISAC #9 would favor a truly "fast track" procedure that would permit the delivery of import relief much more rapidly than under the usual "escape clause" procedure in critical cases where imports are causing irreparable injury to an industry and where the regular procedures would not deliver relief fast enough. Such a "fast track" might involve final action by the ITC, without the need for Presidential review, after, say, 60 days, but with the import relief to be of non-renewable short-term duration, say, 9 months to one year, while a regular "escape clause" case is proceeding.

Although Chapter 4, "Nature of Sa[illegible]ion," is currently undecided, this ISAC favors an MFN requirement. Experience has shown that in cases where selective action has been adopted, this action has proven to be less satisfactory than in those cases where MFN action was taken. In an example

of this sector's products, the Canadian Government has imposed a global cap on imports of footwear while the U.S. has negotiated OMA's only with Korea and Taiwan. The OMA's have been a problem since initial imposition, while the Canadian action has been successful for all parties concerned.

With regard to Chapter 8, "Treatment of Developing Countries," this ISAC strongly feels that no special and differential treatment be afforded to developing countries in safeguard actions regarding products in this sector.

This ISAC is opposed to the use of any consultations mechanism which would delay the implementation of safeguards measures. Accordingly, the ability to take unilateral action expeditiously should not be constrained by this Code.

SUMMARY

This ISAC would be favorably impacted by the adoption of this Code.

Implementing legislation for the Safeguards Code should include: A provision for two three-year extensions of import relief action and a provision for Congressional override of Presidential actions to reduce or terminate an import relief action.

2.G. SAFEGUARDS (continued)

Suggestions for Improvement of Safeguards

Implementing legislation for the Safeguards code should include:

- a provision for two 3-year extensions of import relief action and,

- a provision for Congressional override of Presidential actions to reduce or terminate an import relief action.

2.H. STANDARDS

The Committee has considered the issue of the Standards Code and believe the matters covered are not of significant interest to the sector. Therefore, it is not appropriate to report on this Code.

2.I. STEEL

The Committee has considered the issue of the Steel Code and believes the matters covered are not of significant interest to the sector. Therefore, it is not appropriate to report on this Code.

2.J. SUBSIDIES

We understand the difficulties faced by the U.S. negotiators in dealing with the Subsidies Code. They have undoubtedly acquitted themselves quite well in handling this area of the MTN. However, ISAC #9 had gone on record as opposing in the Subsidies Code an injury test for dutiable products and granting special and differential treatment to developing countries. Unfortunately the final Code contains both of these objectionable provisions.

What is even more distressing is that the implementing legislation now being considered by Congress and the Executive Branch might contain provisions which would continue to make it difficult to receive relief from foreign subsidy practices.

Certainly the present statute as administered by the Treasury Department has not been implemented in a manner consistent with the language of the statute and the intent of Congress. The record of the poor performance by the Treasury Department under the present countervailing duty statute makes it clear that the Treasury Department is not philosophically in tune with the aims of the countervailing duty statute. That agency incorrectly views countervailing duties as a protectionist restriction to trade rather than as a device to insure fair trade. Treasury has mismanaged the countervailing duty program and we believe it would be a serious mistake to continue to entrust the implementation of the countervailing duty statute to the hands of that agency. We recommend instead that this function be transferred to the Office of the Special Trade Representative pending the creation of a new Department of Trade.

2.J. SUBSIDIES (continued)

If a foreign government forbids or prohibits the export of internationally traded raw material while at the same time the United States Government does not do the same, the effect of this action is to depress the price of such raw materials in the foreign country, giving foreign manufacturers a competitive advantage with regard to their raw material that is in effect a subsidy. In the case of hides and skins, the raw material for the leather products of this ISAC, such restrictive action is pursued by the governments of Brazil, Uruguay, India, Argentina and Colombia. The net effect is that leather product manufacturers in those countries are able to effectively under price U.S. leather product manufacturers in shipments to this market. Unfortunately Treasury does not accept this distorting tactic as a subsidy. The new countervailing duty legislation should make it clear that such export restrictions are countervailable.

Another serious loophole exists in cases where a foreign government eliminates its subsidies on exports to the United States but increases its subsidies on exports to other countries. This has occurred recently in the case of the Uruguayan Government which eliminated its tanner subsidy on the export of leather products to the United States, but doubled such subsidy on exports of leather products to all other countries. The effect of such action has been to give the Uruguayan exporter the same subsidy payments, permitting no changes in unit prices on Uruguayan leather product exports.

2.J. SUBSIDIES (continued)

Yet Treasury has found such a practice not to be countervailable under U.S. law. We recommend strongly that in the implementing legislation this matter be dealt with to close a serious loophole in the countervailing duty statute.

U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
STONE, CLAY AND GLASS PRODUCTS
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #10)

REPORT ON MULTILATERAL

TRADE NEGOTIATIONS ISSUES

JUNE 4, 1979

David C. Murchison

David C. Murchison, Chairman
ISAC #10

OVERVIEW

The following preliminary report is submitted to the Congress by Industry Sector Advisory Committee 10, which has advisory responsibility under the Trade Act of 1974 for the products listed in Annex A.

In the multilateral trade negotiations relating to industrial tariffs, the United States did not fully achieve the Congressional objective of equity and reciprocity in this product sector. As we show in detail below, a comparison of tariff concessions made by the United States and its major trading partners discloses that the United States gave substantially more than it received. In these circumstances, the Committee strongly urges the United States to adopt a staging procedure that will minimize the impact on American firms, workers and communities of the uneven and disproportionate concessions it granted.

In the view of this Committee, the results of the trade negotiations looking to the adoption of various non-tariff measure codes are more positive and represent a constructive forward step toward reduction of significant barriers to trade. In the main, with the possible exception of the Subsidies Code, the provisions of these non-tariff codes should provide a helpful framework within which lawful competition can operate to the benefit of the United States and its trading partners.

Overview

The nature and extent of implementing legislation will of necessity govern the degree to which these codes ultimately succeed in practice. In our view, success will depend on how the dispute settlement mechanisms and other consultative mechanisms are administered. In the event American firms find future access to these mechanisms difficult or unavailable as a practical matter, it is doubtful that the codes will provide significant benefit.

For example, if a complaint filed by a United States industry challenging a prohibited governmental export subsidy is not pressed by responsible U.S. authorities out of fear of disturbing political relationships with the offending country, then most assuredly the Subsidies code will be impaired. It is essential, we think, that all of the codes be treated as commercial instruments and that, in day-to-day operation, they be permitted to function without political or other outside interference.

To facilitate preparation of this report, the texts of non-tariff measure codes and preliminary explanations of possible implementing legislations have been provided to the Committee. The Committee has not seen or considered final drafts of legislative proposals, and its comments accordingly are limited and tentative.

Overview

Pursuant to Section 135 of the Trade Act of 1974, the following comments reflect the Committee's preliminary views regarding the possible impact of the codes and tariff concessions on the economic interest of the United States and the extent to which they may or may not provide equity and reciprocity within product sectors.

TARIFF NEGOTIATIONS

In the trade negotiations relating to industrial tariffs, the United States did not fully achieve the Congressional objective of equity and reciprocity in this product sector. This conclusion is based upon a comparison of average depth of duty reductions weighted by 1976 trade volumes, the same data utilized by U.S. trade officials in making such comparisons. The disparities in duty reductions given and received by the United States range between 22 and 34 percent.

Depth of Duty Cuts on ISAC #10 Products Agreed Upon by the United States and Major Trading Partners

Concessions	Depth of Duty Cut	Amount by Which U.S. Duty Cut is Greater or Less than Partner's Cut 1/
U.S. to EC	-33%	Greater by 22.2%
EC from U.S.	-27%	
U.S. to Japan	-41%	Greater by 32.3%
Japan from U.S.	-31% 2/	
U.S. to Canada	-51%	Greater by 34.2%
Canada from U.S.	-38%	

Source: ISAC #10 Meeting, April 26, 1979, at U.S. Department of Commerce

1/ The measure is the percent by which the United States' concession is greater or less than the partner's concession.

2/ Applied rather than bound rate cuts.

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Tariff
Negotiations

Thus, tariff concessions given and received by the United States are such that the results in this product sector appear to be much less favorable for the United States than the results on all products in the MTN. As noted above, the United States cut its ISAC #10 duties by between 22 and 34 percent more than the European Community, Japan and Canada cut duties on comparable products. In contrast, considering all products, the United States cut duties 13 percent less than the European Community, but 26 percent more than Canada. See table below. Data on a comparable basis for Japan were not available at the ISAC #10 meeting on April 26, 1979.

Depth of Duty Cuts by the United States and Major Trading Partners on ISAC #10 Products Versus All Products

	Amount by Which U.S. Duty Cut Is Greater or Less Than Partner's Cut 1/	
Concessions	ISAC #10 Products	All Products
U.S. to EC and EC to U.S.	Greater by 22.2%	Less by 13.2%
U.S. to Japan and Japan to U.S.	Greater by 32.3%	N.A. 2/
U.S. to Canada and Canada to U.S.	Greater by 34.2%	Greater by 26.1%

Source: ISAC #10 Meeting, April 26, 1979, at U.S. Department of Commerce.

1/ The measure is the percent by which the United States' concession is greater or less than the partner's concession.

2/ Applied rate cuts were not available.

Tariff
Negotiations

Imports of ISAC #10 products exceed exports by about two to one, and as much as 44 to one in the case of some products ceramic tile, for example. Domestic manufacturers of these products have long been highly sensitive to import competition, and in the case of many products in the group, imports exceed domestic production. Despite these circumstances, the United States made substantial sacrifices on ISAC #10 products relative to other countries and relative to all products in the MTN.

Accordingly, the Committee concludes that the United States did not fully achieve tariff equity or reciprocity in this product sector.

In view of the duty cuts made on ISAC #10 products, as well as the sensitivity of employment in these industries to increased imports, ISAC #10 members urge that the United States stage the agreed duty cuts so as to minimize their impact on American firms, workers and communities. Impact can be minimized by taking account of cyclical demand, timing the cuts accordingly, and, where appropriate, using the President's authority to complete the reduction of duties by 1989, instead of by 1987, as appears to be planned.

For example, the duty on TSUS 532.24, glazed floor and wall tile, is due to be cut by 3.5 percentage points. Since building construction is entering a recessionary phase,

it is suggested that the duty be cut by .25 percent in each of the first two years, and by .50 percent in each of the last six. Since the effects of imports typically are more severe when the construction industry experiences a downturn, it would be more appropriate to start these duty cuts on ISAC #10 building products in 1982, rather than 1980.

COUNTERFEITING

The Committee endorses the objectives reflected in the code on commercial counterfeiting.

The text of the code considered by the Committee is limited in its coverage to the piracy of trademarks and trade names. During the negotiations, some members of the Committee suggested that consideration be given to enlarging coverage to include patented designs and copyrights, but such enlargement was not negotiated. Nevertheless, the Committee supports the code in its present form and recommends its approval.

CUSTOMS VALUATION

The Committee has considered the text of the customs valuation code and believes that it represents an important forward step in reducing non-tariff barriers to trade.

At the same time, the Committee believes that a greater effort should be made to minimize the time period within which developing countries will adhere to the code. In the Committee's view, there is little valid reason why such countries cannot move expeditiously to conform their procedures to the code's provisions. A special effort should be made, we think, to speed up adherence by these countries.

A uniform system of customs valuation is important because trade flows may be distorted by different systems of customs valuation, many of which can and do operate as significant barriers to trade. Some countries use a single standard for customs valuation, whereas others use multiple standards. Some nations arbitrarily up-lift the invoice value of an imported product if that value appears unreasonably low to the customs official, whereas others have open procedures which may be challenged.

Within the customs valuation systems of particular countries, there are substantial differences in the ways in which a product may be valued. The United States itself has nine standards of valuation, including foreign value, export

value (two versions), United States value (two versions), cost of production, constructed value and American Selling Price (two versions). Consequently, some products may bear higher or lower actual duty rates than other products with the same specified rates of duty. To the extent that some products receive special protection under a particular standard of valuation, other products may be disadvantaged. Finally, multiple methods of customs valuation create opportunities for customs officials to take arbitrary, and even discriminatory action toward countries or products.

The major feature of the new code is to base customs value, when possible, on the transaction value, i.e., "the price actually paid or payable for the goods when sold for export to the country of importation," with appropriate specified adjustments. This definition should be clear and unambiguous in most cases. Furthermore, in most cases, exporters and importers will have prior knowledge of duties to be levied.

The new code provides for a highly desirable process of consultation between customs administrations and importers. Other features include bases for determining transactions value when usual methods are inappropriate. The code also contains helpful procedures for its administration and provides for the settlement of disputes by a Committee on Customs Valuation composed of representatives of signatories.

Customs Valuation

The Committee commends the United States delegation for its role in developing this code and securing the agreement of major trading partners. In our view, the value of the code would be enhanced even more by bringing its administration more directly within the framework of GATT. To do so would improve the likelihood of effective implementation and uniform administration.

GOVERNMENT PROCUREMENT

The Committee is sympathetic to, and supports, the expressed objective of this code to facilitate increased sales of American products to foreign governments. On the other hand, the suspension or repeal of "Buy American" statutes presently on the books could very well result in substantial increases in the purchase of foreign goods by the United States government, to the detriment of American industry. Due to absence of openness in the procurement practices of many foreign governments, U.S. firms may not enjoy the benefits of the code in the same measure as foreign forms.

The Committee has been informed by U.S. trade officials that the code will be "largely self-policing." But American firms are generally unfamiliar with the procurement of goods by many foreign governments, due in large measure to the secrecy often surrounding such government purchases. Should the code be approved, the U.S. government must undertake a major and continuing effort to achieve genuine "transparency" in the procurement procedures of its trading partners while at the same time providing technical assistance to U.S. firms desiring to sell to foreign governments. In the Committee's view, Congress should make clear to the Executive Branch that a supporting program of this nature is essential.

Government Procurement

The Committee appreciates that the ultimate value of the code cannot be predicted and will depend upon actual experience over time. Until the code has been tested over a reasonable period, we recommend that "Buy American" statutory provisions be retained for procurements under the threshold amount. This is absolutely necessary to protect smaller U.S. businesses. Only on the basis of several years of informative experience should consideration be given to removing these statutory provisions.

Subsidies

SUBSIDIES

The Committee supports the underlying purpose and intent of the Subsidies code to reduce or eliminate governmental export subsidies. The extent to which this goal is actually achievable depends primarily upon the nature of implementing legislation ultimately adopted.

Since shortly before the turn of this century, the public policy of the United States has consistently opposed foreign subsidy schemes that distort trade and provide foreign firms artificial competitive advantages in penetrating domestic markets. The first countervailing duty law was contained in Section 5 of the Tariff Act of 1897, which required the Department of the Treasury to assess countervailing duties when a country "shall pay or bestow directly or indirectly any bounty or grant upon the exportation of the article." The statute did not require a finding that a domestic firm or industry would be injured by the subsidy, and imposition of countervailing duties was mandatory. These two Congressional purposes--no injury requirement and mandatory assessment of duties in the full amount of a subsidy--have continued through the years as cornerstones of national policy.

In 1922, the Congress enacted two significant changes in the law. First, it provided that the statute applied to a

subsidy granted by "any person, partnership, association, cartel or corporation" in addition to any subsidy bestowed by a country. Secondly, the 1922 amendments applied the law to any bounty or grant made "upon the manufacture or production or export of any article or merchandise", whereas the statute previously covered only subsidies made upon export. The broader statutory provisions have carried through later enactments and remain in the Trade Act of 1974.

Against this background, the Committee notes that the code is much narrower than the existing U.S. statute and would appear to cover only governmental "export subsidies" by signatory developed nations on non-primary products and primary mineral products. The code would not prohibit any subsidy, export or otherwise, by non-governmental entities, such as foreign cartels. Also, should a subsidy be bestowed by a signatory in violation of the code, an affected U.S. industry would be required to prove material injury before countervailing duties could be imposed. Thus, the code, if approved by the Congress, would not reach important non-governmental subsidies subject to the existing countervailing duty law, and, additionally, it would impose--for the first time in the country's history--a requirement that material injury be proven.

The Committee believes that the agreed text raises further basic questions that warrant attention.

Subsidies

Subsidies by Export Cartels

In dealing only with "governmental" exports subsidies, the code fails to address subsidies bestowed by any "person, partnership, association, cartel, or corporation" presently prohibited by the U.S. statute.

In the industry sector for which ISAC 10 is responsible, export cartels organized in such countries as the United Kingdom and Japan, as well as by nationals in various countries of Southeast Asia, have engaged in unfair methods of competition in the import trade of the United States. In the Committee's view, such non-governmental cartels should not be permitted to subsidize exports to the United States. During the negotiations, this Committee expressed the view that signatory governments should be held accountable for the conduct of their export cartels, whether governmental or non-governmental, and such governments should agree to put a stop to any export subsidy activities by non-governmental cartels. This was not done. As a result, such non-governmental subsidies can only be reached under the existing U.S. statute. The Committee urges the Congress to retain the statute's coverage of non-governmental subsidies and to omit any injury requirement as to such subsidies.

Subsidies

Another major problem we see is the definition of the term "like products" appearing as footnote 2 to section 1 of Article 6:

> "Throughout this Agreement the term 'like product' ('produit similaire') shall be interpreted to mean a product which is identical, i.e., alike in all respects to the product under consideration or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration." (Emphasis added.)

This language is unduly restrictive, since it would seem to ignore the fact that the product in the target market might be directly competitive and interchangeable but not identical in all physical properties. Thus, if read narrowly, the language unjustifiably tilts the code's provisions in favor of those who look upon subsidies as an acceptable export weapon, making it much more difficult to prove injury.

During the negotiations, the Committee urged the U.S. delegation to address this footnote and to negotiate broader language that would assure that, in an injury determination, the issue would be the effect of a subsidy upon "like or directly competitive products." To our knowledge, this task was not undertaken. As a consequence, the Congress must now deal with the problem. In this connection, we recommend that implementing legislation make clear that the products need only be alike in their characteristics and uses.

Subsidies

Injury

Throughout the negotiations, the Committee was informed that the term "material injury" used in the code contemplated no greater proof standard than is presently reflected in the antidumping statute and decisions thereunder. An early draft of possible implementing legislation explicitly confirmed this approach, but we understand that this draft is now being revised to omit such a provision.

The Committee is unanimous in its recommendation that Congress make clear beyond any question its intention that the term "material injury" as used in the code shall require no greater standard of proof (including causality) than provided in the antidumping statute since 1974.

In like manner, the Committee urges that, in the process of formulating implementing legislation, no more stringent injury test be adopted for antidumping proceedings than is currently provided in existing case law.

Dispute Settlement Mechanism and Provisional Measures

The five-month period (150 days) provided for the settlement of claims that exports are being subsidized by a signatory is clearly too long a period unless some meaningful

provisional remedy is available to an industry threatened with injury as a result of subsidies. Manifestly, in a period of five months, a domestic industry could suffer serious and irreparable injury--in terms of lost profits and jobs--and, in many instances, a later favorable resolution under the dispute settlement procedure might not fully compensate for the damage done.

Article 5, captioned Provisional measures and retroactivity, appears designed to provide interim relief. Unless supported by clear and concise implementing legislation, the language may fall short of providing an effective procedure.

We would favor a procedure under which the appropriate U.S. agency would issue interim orders, not unlike the system used by the courts of the United States in issuing temporary and preliminary injunctions to maintain the status quo. Such a procedure ought not to require full evidentiary hearings on the merits but simply require (a) a showing of the existence of the subsidy in question and (b) sufficient evidence of likelihood that the affected industry will ultimately prevail on the merits.

On an expedited basis, a temporary or preliminary order could then be entered (a) placing an embargo on further importations of the subsidized product, (b) posting of bonds

or cash in sufficient amounts to assure payment of such countervailing duties as may later be assessed under the statute, or (c) other relief sufficient to maintain the status quo. We would favor this approach at least on non-governmental subsidies not covered by the code, and we note that such provisions could be adopted by Congress as part of implementing legislation.

With respect to governmental export subsidies covered by the code, it is questionable that posting of general bonds or cash deposits are sufficient interim remedies. We understand that consideration is currently being given to authorizing the use of single entry bonds as a provisional remedy. We think such a provision would materially strengthen the code, and we urge its adoption. While such a remedy might not be warranted in every case, its availability would encourage prompt handling of disputes under the five-month settlement mechanism.

Developing Countries

The Committee finds the provisions of Article 14, captioned Developing countries, disappointing.

We do not object to the principle that special and differential treatment for developing countries is warranted

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in many subject areas of international trade. However, the matter of subsidies is not such an area.

The text of Article 14 not only "recognizes" but encourages trade-distorting subsidy practices. See, in particular, Sections 1, 2 and 5. Section 5, for example, could only prove counterproductive over the next decade of developing trade. Its language makes indelibly clear that a developing country need only "reduce or eliminate" export subsidies when the use of such subsidies "is inconsistent with its competitive and development needs." But an export subsidy is always used to achieve a perceived "competitive" need and has little or no other purpose.

In the industrial sectors covered by this Committee, there are many developing countries with established, efficient industries, fully capable of competing on equal terms. In these circumstances, the affirmative recognition of export subsidies reflected in the draft, which would seem to cloak them with some measure of legitimacy, seems misplaced.

We have been informed by a representative of the Office of the Special Trade Representative that the U.S. countervailing duty statute will continue to be available as a remedy against developing countries utilizing export subsidies. We support and recommend retention of the statute for this purpose.

FRAMEWORK
IMPORT LICENSING
TECHNICAL BARRIERS TO TRADE (STANDARDS)

The Committee supports the purpose and objectives of these three codes and favors their adoption.

Respectfully submitted,

David C. Murchison

David C. Murchison, Chairman
ISAC #10

ANNEX A

3211	Flat glass
3221	Glass containers
3229	Pressed or blown glass, n.e.c.
3231	Products of purchased glass
3241	Cement, hydraulic
3251	Brick and structural clay tile
3253	Ceramic wall and floor tile
3255	Clay refractories
3259	Structural clay products, n.e.c.
3261	Vitreous china plumbing fixtures
3262	Vitreous china food utensils
3263	Fine earthenware food utensils
3264	Porcelain electrical supplies
3269	Pottery products, n.e.c.
3271	Concrete block and brick
3272	Concrete products, n.e.c.
3273	Ready-mixed concrete
3274	Lime
3275	Gypsum products
3281	Cut stone and stone products
3291	Abrasive products
3292	Asbestos products
3293	Gaskets, packing, and sealing products
3295	Minerals, ground, or treated
3296	Mineral wool
3297	Nonclay refractories
3299	Nonmetallic mineral products, n.e.c.

Industry Sector Advisory Committee (ISAC)
No. 11 - Ferrous Products

Steel Sector Report on Multilateral Trade Negotiations

June 28, 1979

In compliance with the 1974 Trade Act, this is a report by ISAC 11 on the results to date of the Tokyo Round of multilateral trade negotiations and the extent to which the desired objectives of equity and reciprocity have been achieved. The report incorporates comments on the Trade Agreements Act of 1979 inasmuch as that legislation serves to refine and make more specific in U.S. law essential features of the international agreements.

ISAC Summary Evaluation

Members of ISAC 11 have been asked to provide an advisory opinion on the extent to which equity and reciprocity have been achieved for the sector as a result of trade agreements entered into under the Trade Act of 1974.

It is the judgment of ISAC 11 that the non-tariff codes, as proposed to be implemented by the Trade Agreements Act of 1979, could result in achieving more equity and reciprocity for our sector than currently exists. On this basis we support the trade agreements legislation submitted by the President to Congress on June 19, 1979 and recommend its approval by Congress.

With respect to the tariff results of the multilateral trade agreements, ISAC 11 concludes that equity and reciprocity were not achieved.

Difficult Negotiations and Desirable Objectives

ISAC members recognize and fully appreciate the difficult tasks that faced U.S. negotiators in attempting to accommodate the broad spectrum of U.S. economic interests. We also recognize that U.S. officials often encountered stiff resistance in negotiations on politically and economically sensitive issues, such as government subsidies and government procurement.

Clearly, a better order in international trade is necessary. To this end, we believe that U.S. negotiation officials made significant progress in the search for more discipline, equity and fairness than currently exists.

We also believe that formation in October 1978 of the government-to-government OECD Steel Committee should be viewed as a positive accomplishment, even though this occurred outside the MTN negotiating framework. The industry fully supports the new international committee as a significant step toward trying to resolve some of the long-standing problems in steel trade among countries.

Since the Steel Committee only recently became operative, it is too early to judge how effectively it will deal with these problems. If members come to grips with them quickly and constructively, the potential benefits will be great. If, on the other hand, the Committee bogs down in endless debate or prolonged studies of an academic nature, the benefits -- if any -- will be minimal and the spirit and intent of the Agreement will be frustrated.

The domestic steel industry has pledged to work closely and cooperatively with the Government in achieving positive results from the new Steel Committee.

Basis for ISAC Evaluation

Members of ISAC 11 had to judge the negotiation results in terms of whether those results can meaningfully and effectively deal with wholesale dumping and subsidization as well as the broad array of protective import measures that currently characterize world trade in steel, ferroalloys and related industries.

In making their evaluation, ISAC 11 members chose not to limit themselves exclusively to a review of the trade agreements. Those agreements, while nobly drafted, contain broad generalizations, imprecise phrases, and undefined terms. That was to be expected from international documents designed to engender endorsement from a highly diverse group of countries.

For these reasons, ISAC 11 stressed from the outset that a proper evaluation of MTN results must take into account not only the trade agreements, but also the U.S. implementing legislation and the extent to which changes in domestic law would deal with restrictive or unfair trade practices adversely affecting the domestic industry.

SUBSIDY/COUNTERVAILING DUTY CODE

The Subsidy Code is of particular importance to ISAC 11. For steel, ferroalloys and other products covered by this ISAC, foreign government subsidies and ownership of industries are the root causes of unfair commercial practices in the U.S. market.

In reviewing the Subsidy Code, ISAC members cited a number of serious deficiencies, primarily in definition.

1. There is no general definition of "subsidy" in the Subsidy Code. We recommended that a definition must be written into U.S. law and must broadly include both the export and domestic subsidies of foreign countries.

2. The Code calls for a "material injury" test. We recommended that the injury definition in the U.S. countervailing duty statute should be any injury which is more than immaterial or inconsequential. This is the test used by the ITC under the current antidumping statute.

3. The Code permits assessment of a countervailing duty less than the amount of the subsidy and, in fact would permit complete discretion by a administering agency as to the application of <u>any</u> remedy.

4. The Code permits termination of proceedings based upon the receipt of voluntary undertakings or mutually agreed solutions - "undertakings" or "solutions" that need be satisfactory only to the governments, irrespective of the position of the affected industries and their employees.

These are examples of the types of deficiencies which we saw and cited in the Subsidy Code. If these defects were not remedied in the implementing legislation, the Codes could have substantially weakened the ability to deal with subsidy practices.

It is the judgment of ISAC 11 that the Trade Agreements Act of 1979 resulted in a historic degree of reform. The Act significantly improves upon the Code by defining and making more precise the critical definitions, by expediting the processing of complaints, by insuring more effective application of relief during a proceeding and following an affirmative determination, by providing adequate judicial review, and by setting standards for the suspension of investigations. The 1979 Act empowers U.S. trade officials with the authority needed to effectively deal with trade problems arising from foreign government subsidy practices.

One problem does remain. In the area of export subsidies, the biggest problem for American steel producers has been in Europe, where the Community's value-added tax system constitutes (by the rebate of the tax on exports) and export subsidy and (by levy of the tax on imports) a very high and discriminatory barrier against foreign producers.

The V.A.T. trade problem was not resolved in the negotiations. Instead, the code specifically sanctions rebate of V.A.T. on exports and its levy on imports.

We recommend that the V.A.T. trade issue be made a priority area of study and reevaluation in the post-MTN period.

INTERNATIONAL ANTIDUMPING CODE

In a prefatory explanation to the Subsidies/Countervailing Duty Code, a U.S. Government report states:

> The EC, and others, have argued that it would be illogical, and potentially troublesome, to interpret GATT Article VI one way for countervailing and another for antidumping. We believe that in each case the adoption of the countervailing provisions in the dumping context would, in fact, result in closer conformity between actual U.S. practice in dumping and the provisions of the Antidumping Code, and could well be desirable from a U.S. point of view.

From the standpoint of this ISAC, the desirability of parallel changes in the International Antidumping Code, and therefore in the U.S. Antidumping Act, depended on the actual language to be included in the countervailing duty provisions of the implementing bill.

We had urged that in the amendment of the domestic antidumping statute there should be absolutely no weakening in its enforcement nor requirement that domestic complainants sustain a greater burden of proof than currently exists today with respect to causality, injury, or definition of industry. In fact, the Act should be strengthened and made more effective.

As in the case of the countervailing duty statute, it is the judgment of ISAC 11 that a historic degree of reform has been realized in the Trade Agreements Act of 1979 and that administration of the Antidumping Act should be improved as a result thereof.

GOVERNMENT PROCUREMENT CODE

The Government Procurement Code offers the possibility of significantly increased trade for U.S. goods fabricated from products covered by ISAC 11. If properly administered, this code should result in significant progress toward establishing equity and reciprocity in the area of government procurement.

However, within the code there are a variety of means by which signatories could violate its spirit. Only through careful monitoring and a lasting commitment by the U.S. Government to see that the spirit of the code is obeyed, can this agreement achieve its objectives.

Implementation of the code has been set for January 1, 1981. The government should use the time between now and then to develop some record of and further evaluate the significance of each country's entity coverage. This would not only provide valuable information but would also establish, for all countries to see, that the U.S. Government has continuing interest in the code and wants to see it administered fairly.

CUSTOMS VALUATION CODE

The Customs Valuation Code rationalizes national customs valuation practices by establishing a well-defined list of valuation methods to be used in a pre-determined order of preference. To the extent possible, "transaction value" will be used as the basis of customs valuation in both unrelated and related party transactions.

It is the judgment of ISAC 11 that the standardization of valuation methods is a positive step and hopefully will lead to greater comparability and predictability in customs valuation practices internationally than has been the case to date. As in the case of other codes, the United States will have to rely on stringent enforcement and active use of the dispute settlement mechanism to insure that this code is applied uniformly in countries with widely diverse customs practices.

SAFEGUARDS CODE

Regretfully, agreement on an international safeguards code has not yet been achieved. Members of ISAC 11 hope that efforts to revise GATT Article XIX into a meaningful international "escape clause" procedure will continue undaunted.

From our viewpoint such a code could result in two significant benefits: (a) it could permit application of selective import restrictions; and (b) it would require other nations to be more transparent and to operate above-board whenever they apply import restraints or enter into restrictive trade agreements which can have the effect of diverting steel, for example, into the United States.

TEXTS CONCERNING A FRAMEWORK FOR THE CONDUCT OF WORLD TRADE

It is the judgment of ISAC 11 that the five points constituting the work concluded on GATT framework and reform represent positive efforts to explicitly update and clarify that which has become acknowledged interpretation of international trade law.

We also note the agreement of the Framework Group to take up on a priority basis in the post-MTN period the GATT rules on imposition of export restraints. In this regard, ISAC 11 members urge that the procedural features of the U.S. law governing the imposition of export controls for products deemed to be in short supply be given international standing so that all other GATT members operate openly and above-board in the imposition and application of such controls.

TREATMENT OF DEVELOPING COUNTRIES

While preferential treatment of lesser developed countries may be appropriate in certain circumstances, such treatment is not justified if their industries are fully competitive in international markets. This applies particularly to more highly developed countries such as Brazil, Taiwan, Mexico and South Korea whose steel and ferroalloys industries compete in the world marketplace on equal terms with steel and ferroalloys industries of major developed countries.

ISAC 11 members are pleased that key provisions of the international agreements and the Trade Agreements Act of 1979 attempt to distinguish the obligations of major developed countries, more advanced developing countries, and least developed countries. We have urged that such a distinction in economic status be made. It will now rest with U.S. trade officials to insure that the "graduation" concept is adopted and effectively implemented on both a product and a country basis.

TARIFFS - STEEL MILL PRODUCTS

Contrary to the improvements realized in the non-tariff area, equity and reciprocity were not achieved in terms of tariff results. If anything, the tariff reductions to which the United States agreed, will widen the disadvantage between the United States and its major trading partners insofar as steel is concerned.

Following is a breakdown of the reductions negotiated on steel mill products, based on unofficial data available to us:

	Average Applied Rate *	Depth of Cut *	Resulting Average Rate *
EEC	6.9	22%	5.4
Japan	6.3	16%	5.3
Canada	13.7	37%	8.7
United States	6.1	27%	4.4

* Based on 1976 dutiable trade, weighted by trade in steel mill products with the world.

In comparison with the existing rates of duty, the United States concessions were excessive and will leave the United States worse off in terms of tariff disparities vis-a-vis the EEC and Japan. Higher tariffs in Europe, Japan and Canada will be a factor -- added to other import restraints -- which will make the U.S. market more attractive to third country steel exports. The inequitable tariff results will contribute to an increase in volume of steel imports -- already the second largest contributor to the growing U.S. trade deficit.

TARIFFS - FERROALLOYS

ISAC members representing the ferroalloys industry strongly object to the tariff results. The domestic ferroalloy industry has consistently urged the world-wide elimination of all ferroalloy duties but, failing that, elimination of the disparity in rates that currently exists among the United States, the European Community and Japan.

U.S. negotiators failed on both points. They did not extract adequate concessions from our trading partners, especially Japan. It is noteworthy that Japan made virtually no concessions on ferroalloys whose domestic production is important to the Japanese economy.

In particular, the U.S. ferroalloys industry objects to the substantial cut in U.S. tariffs from 5.5 percent to 3.9 percent on the critical and import-beset product of silico-manganese. This cut is certain to be harmful; the EEC and Japan made no significant reductions on silico-manganese.

As a result of the unilateral tariff reductions made during the Kennedy Round and the impact of world-wide inflation on specific and compound rates, U.S. duties on ferroalloys (based on trade-weighted imports) in 1976 were 63 percent below those prevailing on imports into the EEC and 57 percent below those into Japan. The offers tabled in Geneva achieved some (albeit inadequate) degree of harmonization with the EC; but, with Japan, no harmonization was achieved.

In short, the Geneva negotiations did little to remedy the duty disparity that has made the United States the world's most attractive ferroalloy market for all world producers to the great disadvantage of the domestic producers.

TARIFFS - CONVERSION

There is a positive aspect to the tariff results. Most of the specific and combination tariff rates on items covered by ISAC 11 have been converted to ad valorem rates of duty. This is a belated but nevertheless welcome reform. It finally places the United States on a par with the EEC, Japan and most other countries of the world insofar as this aspect of tariff administration is concerned.

ADMINISTRATION AND ENFORCEMENT OF TRADE AGREEMENTS PROGRAM

At the risk of restating the obvious, ISAC 11 believes that the newly negotiated trade agreements will only be as good as the will of U.S. trade officials to insure their fair but effective implementation through application of domestic laws and through pursuit of international procedures.

To this end, we strongly urge

-- Restructuring of the international trade functions of the U.S. Government to gear for the monitoring and enforcement responsibilities that necessarily attach to the negotiated agreements;

-- Continuation of the private sector advisory process instituted under the Trade Act of 1974 which exceeded our expectations and of which this report is a by-product; and

-- Regular oversight and participation by Congress and its committees in the operation of the trade agreements program.

We truly hope that derogation of responsibility in the administration of domestic trade law is behind us and that a new era of international trade policy lies ahead that will be responsive to the grave economic issues that confront our nation and the international community at large.

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U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

REPORT

BY

INDUSTRY SECTOR ADVISORY COMMITTEE ON
NONFERROUS METALS AND PRODUCTS
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #12)

MULTILATERAL TRADE NEGOTIATIONS ISSUES

JUNE 25, 1979

Charles R. Carlisle
Chairman, ISAC #12

I. SUMMARY

This report on the Multilateral Trade Negotiations by the Industry Sector Advisory Committee on Nonferrous Metals and Products ("ISAC 12"), following a preliminary report on February 27, 1979, may be considered a final report. Certain important work remains to be done, however, on the negotiating of a Safeguards Code and other matters, and ISAC 12 reserves the right to make additional comments on the MTN if necessary.

Throughout the MTN, ISAC 12 has been concerned principally about four matters:

1 -- tariff reductions by the United States and certain other countries, especially the EEC, Japan and Canada, on a wide range of nonferrous metals and products;

2 -- restrictions by developed countries on the exportation of nonferrous scrap, and restrictions on exports of nonferrous ores and concentrates by certain developed (particularly Australia and Canada) and developing nations;

3 -- the negotiation of a Subsidies Code which would reduce the use by other nations of trade and investment distorting export and internal subsidies, and which would allow U.S. industries to obtain effective countervailing measures against such subsidies when they damage American commercial interests;

4 -- the negotiation of an improved safeguard system which would provide: "fast-track" access to import relief in emergency situations with a lesser burden of proof on domestic petitioners and with limited forms of relief granted for shorter time periods than under the "escape clause" (Sec. 201 of the 1974 Trade Act); and selective application of measures directed solely at disruptive imports without regard to the "most favored nation" principle.

Also, the GATT Antidumping Code was amended to make it conform with the Subsidies Code, and the Congress and the Executive Branch have drafted implementing legislation, i.e., amendments to the U.S. antidumping statute. These matters are also of considerable interest to ISAC 12.

The Advisory Committee's comments and further recommendations on each of those five important subjects are summarized immediately below. A somewhat more detailed discussion of each point occurs later in the report.

Summary of Comments and Recommendations

1 -- With the exception of aluminum ingot and unwrought magnesium, refined nonferrous metals will continue to have substantially the same tariff protection as they previously had. Also, on many wrought, semimanufactured items the discrepancies have been reduced considerably between the generally low U.S. tariffs and the generally much higher tariffs in the EEC and Japan.

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An excellent opportunity has been lost, however, to harmonize tariffs fully, and the American market will remain the most open major market in the world for nonferrous metals. ISAC 12 strongly recommended a "sectoral negotiation" which would have attempted to bring about equality of competitive opportunity. Unfortunately, the American negotiators could not, or chose not to, accept this advice. Instead they concentrated on the arithmetic of tariff cuts rather than than on the competitive situations in which American companies will find themselves after the MTN.

2 -- Nothing was done to reduce the controls which other countries exercise over exports of nonferrous scrap and nonferrous ores and concentrates. As a way of encouraging freer trade in these materials, the Congress should consider legislation that would authorize restrictions against countries which place export controls on nonferrous scrap and ores and concentrates.

3 -- The U.S. negotiators have done a generally good job of negotiating a Subsidies Code under trying circumstances. For the Code to be of real benefit, however, to American industries, there must be carefully drafted legislation on such key issues as the injury test and the implementing legislation must be properly administered.

4 -- A Safeguards Code has not yet been negotiated; it is hoped that negotiations can be completed this July. American negotiators should accept "selectivity" and continue to press for "fast-track" import relief. The Administration should send fast-track legislation to the Congress, regardless of the outcome of negotiations on the Code.

5 -- Implementing legislation arising from amendments to the GATT Antidumping Code should not make any change in the injury test currently applied under U.S. law.

6 -- It is impossible to say at this time whether the trade negotiations will benefit or harm the American nonferrous metals industry. For example, no one can predict the impact on trade and investment flows of a series of interacting tariff cuts. The new Subsidies Code could benefit the industry but much -- indeed, everything -- depends on the implementing legislation now before the Congress and on how the American law is administered subsequently.

II. TARIFF REDUCTIONS

General

Although the tariff reductions cover several hundred items, some generalizations are in order. First, with the exception of aluminum ingot and unwrought magnesium, U.S.

producers of the basic, refined nonferrous metals will continue to have substantially the same tariff protection as they previously had.

Second, on the many semimanufactured items made from nonferrous metals (e.g., rods, bars, sheets, tubes, pipes, flakes and powders) the discrepancies between the generally low U.S. tariffs on the one hand and, on the other, the generally much higher tariffs in the other principal markets, the EEC and Japan, have been reduced considerably.

That said, it is fair to say that an excellent opportunity has been lost to harmonize the relatively high tariffs of the EEC, Japan and Canada, particularly on the semimanufactured items, and the relatively low duties of the United States. In the major metals -- aluminum, copper, lead and zinc -- U.S. duties in the semimanufactured items will generally be in the 3-6 percent range while those of Japan and the EEC will usually be from 6 to 12 percent.

Thus, the U.S. market will remain the most open major market in the world for nonferrous metals and nonferrous products. This will be particularly evident during the periods of oversupply which are endemic in the nonferrous industry. The experience of the copper and zinc industries in the period 1975 - 77 provides strong confirmation that world surpluses move to the U.S. market under such conditions.

ISAC 12 feared this result and strongly recommended a "sectoral negotiation" for nonferrous metals, a negotiation which would address tariffs, supply access, investment restrictions and other matters which affect equality of competitive opportunity.

This advice was not followed, in part because the EEC and Japan did not want a sectoral negotiation in nonferrous metals (although Canada did) and perhaps also because the American negotiators were at best lukewarm to the idea. As a result, tariffs were addressed in isolation, using various formulas to cut them. And the negotiators, unfortunately, were preoccupied in many instances with the relatively unimportant arithmetic of tariff cuts rather than with the competitive situation in which American companies would find themselves after the MTN.

More detailed comments on certain metals follow:

Aluminum

The domestic aluminum industry's major objective in the Tokyo Round has been freer trade through the reduction and elimination of tariff disparities on aluminum and aluminum mill products among the major producing and consuming countries and regions. This objective was recognized by the Congress in the Trade Act of 1974, with aluminum specifically identified in the Act as a sectoral candidate for tariff harmonization.

With respect to unwrought (primary) aluminum, the principal form in which aluminum moves internationally, existing tariff disparities actually will be significantly aggravated and enlarged as a result of the MTN. At the request of Canada, the U.S. negotiators have agreed to the elimination of U.S. unwrought aluminum tariffs. Although Canada has agreed to match this, the net benefit will be overwhelmingly in favor of their primary aluminum industry which already is the world's lowest cost producer and the world's largest exporter. The net benefit will not result from increased Canadian exports to this country since the U.S. pre-Tokyo Round duties already were very low; rather the Canadian industry will benefit by not having to pay many millions of dollars in duties each year to the U.S. Treasury.

On the other hand, tariffs in the EEC and Japan will remain at high levels. The EEC has agreed to only a slight reduction (from 7 to 6 percent), and Japan will retain its 9 percent tariff. Thus, these major markets for U.S. exports will continue to be protected, while the United States will be the only major market fully open to aluminum ingot imports. Further, by eliminating the U.S. tariff completely, this country will have no leverage to bargain with the EEC and Japan in the future.

Regarding wrought aluminum mill products, there will be some moderation of existing disparities. However, the duties

applicable to major mill products in the EEC and Japan will remain substantially greater than those in the U.S. In times of supply-demand imbalance, these higher EEC and Japanese duties will continue to afford their domestic industries a disproportionately larger share of protection, to the further detriment of American industry. The conversion of U.S. specific rates of duty to ad valorem equivalents, however, will have the beneficial result of preventing the further erosion of U.S. duties because of inflation.

A representation of a consuming company comments: "In aluminum, TSUSA items 618.01, 618.02, and 618.15 (ingot and continuous cast rod and sheet in coils) are alternative products that an aluminum smelter can make from molten primary aluminum. They should carry the same duty, namely zero."

Beryllium and Beryllium Alloys

Unlike other segments of the American nonferrous metals industry, beryllium products producers are heavily export oriented. The chief value of their exports is in beryllium-copper alloys, not copper or aluminum.

The negotiators largely lost an opportunity to restructure the duties on beryllium products so as to reduce the disparities between the generally lower U.S. duties and the higher Japanese and EEC duties. For example, on beryllium aluminum master alloy, the final U.S. duty will be zero, compared to six percent for the EEC and nine percent for Japan. However,

Japanese duties on beryllium copper strip were reduced 70 percent, a significant step.

All things considered, the U.S. beryllium industry will be no worse off -- and perhaps somewhat better off -- than before.

Copper

In unwrought copper the United States will have a duty of 1.2 percent, the EEC zero, while Japan will retain a substantial tariff of 7.3 percent. During periods of oversupply, therefore, excess metal is likely to flow into the U.S. and European markets, but not the Japanese.

In fabricated copper products, the U.S. will have some tariffs in the 6 - 7 percent range, but many ranging from one to three percent. EEC tariffs will be almost entirely 6 - 6.5 percent, because the Community would agree only to less than "formula cuts." Japanese duties were cut substantially, mainly from 15 percent, but will remain in the range of 6.5 to 8.0 percent. Thus, in fabricated products, the U.S. duties will generally be the lowest of the three major markets.

Lead

The conversion of the present specific duty of 1 1/16 cents a pound on unwrought, refined lead to an ad valorem equivalent of 4 percent will allow the tariff to keep pace with inflation.

Additionally, the willingness of Canada to reduce tariffs of 17.5 percent on many semimanufactured items to 2 percent will be of substantial help. There will continue to be substantial disparities on these items, however, between the U.S. duties and those of the EEC and Japan, with U.S. duties generally in the 3 - 5 percent range, the Japanese running from 6.5 to 8.0 percent and the European around 8 - 9 percent. The unwillingness of the Europeans to reduce their tariffs further is particularly disappointing.

Magnesium

The United States today is the world's largest producer and consumer of magnesium. Magnesium is very energy intensive. Canada, with extensive hydroelectric potential, is encouraging production and, at the same time, is unwilling to reduce its tariff of 5 percent.

Since the U.S. is drastically reducing its tariff on primary metal from 20 to 8 percent, Canada, with its low energy costs, is likely to have a substantial economic advantage in the future. The U.S. industry may lose part of its export markets and also may find it difficult to expand in its own market. (This refers to industrial uses, the major market. Canada's magnesium today enters the U.S. tariff-free for military end uses.)

The EEC has a preferential agreement with Norway which allows Norway's government-controlled production facility to send magnesium into the EEC free of duty. The EEC is the

world's second largest magnesium market. The United States now will find it difficult to compete with Norway's state-controlled facility in the EEC.

Nickel

Nickel in its unwrought form continues for the most part to trade "free" throughout the industrial world. Japan, the sole exception, imposes duties on its imports of nickel metal, while imposing no duty on nickel ores. That country, however, has made significant cuts of up to 60 percent in tariff rates.

The attempt to equalize tariff rates on wrought nickel and its alloys between the United States and the EEC has been fairly met for major trade items. Pipe and tubing remain the exception with this country reducing its rate to 2.5 percent while the EEC is cutting only to 5.3 percent. Japan continues its protective measures by remaining several percentage points higher than both the United States and the EEC. Although the Japanese tariff cuts on nickel and its alloys are significant, that country will still retain the highest tariffs among the major industrial nations.

Silicon

TSUS 632.8420 containing 96.0 to 99.0 percent silicon will carry a 9.0 percent duty, whereas 632.43 containing over 99.0 percent silicon will carry a 3.7 percent duty. There is no logical reason why the less pure product should carry the higher duty.

Titanium

During the course of the MTN there has been no change in the critical and unique contribution of titanium alloys in assuring a strong U.S. defense posture, specifically in high performance aircraft and gas turbine engines. It will be somewhat more difficult to maintain a strong domestic primary industry if the U.S. tariff on unwrought and wrought titanium is reduced from 18 to 15 percent. It was recommended that titanium be excepted from any tariff cuts, and this was originally approved by the STR.

Zinc

The effective duty on unwrought, refined zinc will increase with inflation since a specific duty of 0.7 cents a pound is being converted to an ad valorem equivalent. It is distressing, however, that Japan and the EEC will maintain their duties at 3.7 and 3.5 percent, respectively.

The American duty on zinc alloys, which was excepted by the STR from any tariff reductions, remains at 19 percent. One producer representative comments: "The American negotiators recognized the role of the zinc alloying industry in maintaining a market for speci high grade zinc in this country and removed from conside. .ion any change in the ad valorem duty on zinc alloy."

A consumer representative notes: "Zinc alloy will carry a 19.0 percent duty in contrast to unalloyed zinc with less than 2.0 percent and a variety of fabricated products, including

fabricated alloys, which will have no more than a 5.7 percent duty. The discrepancy in the duty structure is glaring."

Again in wrought, semimanufactured items U.S. duties will generally be in the 5 to 6 percent range, while EEC duties will be around 8 percent and the Japanese 6 to 7 percent. Thus, significant tariff disparities remain in favor of foreign producers.

III. ACCESS TO SUPPLIES

Since there was no sectoral negotiation, it had been hoped that the questions of export controls on scrap and ores and concentrates might be dealt with in the GATT instruments known collectively as the Framework Agreements.

Unfortunately, nothing was accomplished except that agreement was reached to continue discussing the matter after the MTN. ISAC 12 doubts the success of any such discussions.

The United States is the only major industrial nation which permits scrap to be exported freely. Moreoever, other nations, which complain about occasional requests by U.S. industry to have restrictions placed on metal imports, are moving in the direction of imposing export controls on ores and concentrates as a way of encouraging development of their own metals industries.

In order to encourage freer trade in scrap and ores and concentrates, the Congress should consider:

1 -- Amending the Export Control Act to authorize the prohibition of scrap exports to any country which itself restricts the export of scrap.

2 -- Amending the 1974 Trade Act to provide that when any country restricts its ore and concentrate exports to the United States this country might similarly restrict imports of the corresponding metal from that country, unless there was a shortage of metal in this country as measured by, say, producer stock levels.

IV. SUBSIDIES CODE

The American negotiators have generally done a good job of negotiating a Subsidies Code under trying circumstances. For this Code to be of real benefit, however, to American industries the implementing legislation must be carefully drafted.

Injury test. American negotiators made a key concession in agreeing to an injury test, not now required under American law except for duty-free products. It is most important that the injury test under the amended countervailing duty statute be no more rigorous than that applied under the antidumping statute since January 1975.

Non-signatories. Non-signatories of the Code should not receive the benefit of the injury test.

Developing countries. Developing nations, often the worst offenders in the use of subsidies, should receive no special benefits under U.S. law.

ISAC 12 recommended the retention of the DISC, and it appears that in negotiating the Subsidies Code the U.S. negotiators entered into no agreements which would require the elimination of DISC. This matter should be discussed, if at all, in a post-MTN tax conference.

V. ANTIDUMPING CODE

The GATT Antidumping Code has been amended so that it will conform with the Subsidies Code. U.S. implementing legislation should:

1 -- Not make any change in the current injury test.

2 -- Shorten somewhat the time limits for completion of a case.

3 -- Make certain that when price assurances are accepted to terminate a case, they are for the full amount of the dumping margin and are monitored closely.

VI. SAFEGUARDS CODE

Disputes over key issues have delayed negotiation of a Safeguards Code. The negotiators now hope to complete work on the Code in July of this year.

The American negotiators should:

1 -- Accept "selectivity," the application of import measures against particular offending nations, without regard to the MFN principle.

2 -- Continue to press for restrictions on export restraints and extra-industry agreements.

3 -- Not agree to special and differential treatment for developing nations.

4 -- Not agree that imports should be the "principal" cause of injury or accept any language that would require amendment to Sections 201-203 (the "escape clause") of the 1974 Trade Act.

5 -- Continue to press for a "fast track" for import relief in critical circumstances with a lesser standard of injury and a shorter period of relief than under the "escape clause." In this connection ISAC 12 welcomes a statement by an STR representative that the introduction of "fast track" legislation is being considered by the Administration, regardless of the outcome of the Safeguards negotiations.

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON HAND TOOLS, CUTLERY AND TABLEWARE FOR MULTILATERAL TRADE NEGOTIATIONS

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 26, 1979

Max Tingley
Chairman, ISAC #13

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OVERALL

While we recognize that certain benefits will accrue to some industries as a result of individual agreements, we do not find that, on balance, the agreements overall provide for equity and reciprocity within this sector.

We do however recognize and hereby acknowledge the conscientious and dedicated efforts of the Government representatives who worked with us directly and indirectly during these several years of consultations, in a sincere effort to make this exercise a success.

Inasmuch as all information regarding the impact of these agreements on other industry sectors was not available to us, ISAC 13 does not believe it is in a position to comment on whether the MTN Agreements are in the overall economic interests of the United States.

Furthermore, since language contained in implementing legislation is not now available and thus cannot be included in an assessment of the overall impact of the MTN on the economy of the United States, we reserve the right to revise these or submit additional final comments when detailed provisions of that language have been made available.

TARIFFS

It is the consensus of this committee that the U.S. tariff offers on products manufactured by industries

OVERALL

represented in ISAC 13 were generally comparable to offers of some other countries. It was a distinct disappointment, however, that no items of scissors, shears or hand tools, for which exceptions were requested, were withdrawn during the tariff reduction process.

CUSTOMS VALUATION

ISAC 13 supports the provisions of the code on Customs Valuation and are hopeful that it will provide the desired deterrent to the longstanding practice of some countries who have frequently engaged in the practice of value uplift.

FRAMEWORK

ISAC 13 fully supports the provisions set forth in the Framework code.

COUNTERFEITING

ISAC 13 fully supports the provisions of the draft code on Counterfeiting and urges that its definition be expanded to cover designs, models and copyrights, in addition to trademarks and trade names.

We trust that unrelenting efforts be pursued to have this code adopted -- especially by the LDC's.

GOVERNMENT PROCUREMENT

Members of ISAC 13 industries have little hope of competing for Government business in other countries inasmuch

OVERALL

as the products of those industries are predominately labor intensive and to a large degree non-competitive under any circumstance.

The industry member products covered by special Buy American provisions of legislation are gratified with the exclusion of the National Tools Center and Region 9 of GSA from the list of entities designated for coverage by the Agreement.

Implicit in the exclusion is the procurement of hand tools and stainless steel flatware for Government consumption.

IMPORT LICENSING

ISAC 13 members support the provisions of the Import Licensing Code and are hopeful that the restrictive practices of several countries, especially the LDC's, will be substantially eliminated by its adoption.

SAFEGUARDS

ISAC 13 members wholeheartedly support the provisions of the Safeguards Draft Code and are deeply distressed at the failure of our trading partners to sign this code.

Failure to achieve finalization and acceptance of the Safeguards Code by all or most participants in the MTN will substantially nullify or dilute the potential benefits of all other adopted codes.

OVERALL

STEEL AGREEMENT

Products manufactured by virtually all of the industries represented in ISAC 13 are predominantly fabricated from steel. The combined production of hand tools, saws, saw blades, scissors, shears, cutlery, and stainless steel flatware amount to billions of dollars in annual sales.

Members of this committee have concluded that the combined effect of U.S. tariff reductions, duty-free entry from LDC's under the General System of Preferences, and anticipated "downstreaming" as a result of the Trilateral Steel Agreement by fabricators of products made from excess capacity subsidized steel will result in a continuing erosion in the world's market share of their respective products, which, even as negotiations have taken place, is diminishing.

Another factor contributing to those conclusions is the fact that most of the products made by ISAC 13 members are labor intensive and therefore import sensitive.

We do not believe the subsidy or other codes provide any protection from the above and feel that the future of numerous small and some medium sized U.S. producers of items made of steel appears bleak indeed. We fear that many of them are destined for extinction within the next decade as a direct result of those factors, and ISAC 13 members deplore the apparent acquiescence by our Government to the concept of an "administered world economy" and a departure from our historical free international market philosophy.

OVERALL

STANDARDS

ISAC 13 strongly supports the basic precept of the Standards Code which will mainly benefit high technology industries. Whereas it could prove troublesome where volume markets of known technology products will become more vulnerable to imports, it is hoped that the code may open up foreign markets for some competitive U.S. products.

Care should be exercised in the implementing legislation that the code does not become a back door approach to obligating the U.S. Government to interfere with our historical concept of the voluntary standards system developed and recognized by both government and industry over many decades.

SUBSIDIES/CVD's

The objectives of this code are highly desirable and generally supported by ISAC 13. However, the code clearly does not provide protection against "downstreaming" (flooding our markets with underpriced products made from excess capacity subsidized steel).

Although it does tend to control certain types of subsidies and their concomitant effect on traditionally recognized patterns of trade it does not inhibit the widely used practice of value added taxes by most EEC members.

OVERALL

With regards to the Illustrative List of Export Subsidies, we strongly object to the inclusion of reference to GATT document L/4422 relating to the U.S. DISC program while deleting reference to GATT L/4423-25 dealing with U.S. counter-complaints against EEC country practices, which had appeared in the previous draft dated December 27, 1978. Since these are all related issues, future consideration of any one of them should be accomplished simultaneously with the other three in a common forum, ideally in an International Tax Forum as proposed by U. S. negotiators.

ISAC 13 vigorously opposes the injury test as a prerequisite to imposition of countervailing duties.

LEGISLATION

It is strongly recommended that domestic and export related tax issues and their impact on international trade be designated for discussion in an International Tax Forum which should be created by appropriate channels at the earliest possible date.

The concept of a Department of International Trade such as proposed by S. 891 introduced by Senator Byrd and S. 377 introduced by Senators Roth and Ribicoff is fully supported by ISAC 13.

2.A. AIRCRAFT

ISAC 13 has reviewed the issue of aircraft and chooses to make no comment because the specific details of the agreement itself are not of significant importance to this sector. For this reason, it does not appear appropriate to report on the agreement.

2.B. COUNTERFEITING

ISAC 13 recommends that the draft agreement on counterfeiting include an expanded definition of "commercial counterfeiting" to include designs, models, copyrights and trade dress in addition to trademarks and tradenames.

ISAC 13 strongly supports the draft code on commercial counterfeiting and hopes all contracting parties will adopt the code.

2.C. CUSTOMS VALUATION

ISAC 13 supports the provisions of the code.

We wish to emphasize that the code is acceptable, inasmuch as the language of this code provides positive assurance that the longstanding practice of value uplift will be prohibited in signatory countries.

In the interest of achieving reciprocity, we strongly urge that every effort be exerted by the United States to insist that all developed countries and LDC's accept the provisions of the code.

This is of particular concern since the code's provisions will not apply to non-signatories, many of which will continue to engage in the practice of value uplifts.

2.D. FRAMEWORK

ISAC 13 generally supports the framework agreements and in particular the efforts to improve the dispute settlement procedures by making them more effective and timely. ISAC 13 strongly supports the concept of graduation of LDC's and urges the adoption of procedures whereby the acceptance of greater obligations by LDC's is implemented.

2.E. GOVERNMENT PROCUREMENT

ISAC 13 is pleased that the Government Procurement Code provides for continuation of the special Buy America provisions with respect to the import-sensitive products included within the ISAC.[1/] However, the ISAC does not believe that the Government Procurement Code will result in new or expanded export opportunities for ISAC 13 products.

ISAC 13 notes that the Code will put U.S. suppliers at a real disadvantage if forced to compete with foreign suppliers for U.S. Government business. In the manufacturing process, U.S. producers must comply with a myriad of U.S. laws -- OSHA, EPA, EEOC -- through affirmative action plans, labor laws, wage and price controls among others. STR and Commerce Department representatives have indicated that foreign suppliers to the U.S. Government will not be required to comply with these requirements. ISAC 13 does not believe this is either fair or equitable.

ISAC 13 recommends that implementing legislation provide for an exception from code coverage for industries

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1/ A clear distinction exists with regard to Buy American provisions relating to Hand Tools and Stainless Steel Flatware in the GSA appropriations bill and other products covered by the DOD appropriations bill.

Whereas the DOD provides for a complete prohibition against the purchase of certain items of foreign origin the GSA language only provides for a 50 percent equalizing differential in favor of U.S. products. Experience has proven that the 50 percent provision has in no way excluded foreign products from enjoying a substantial number of Government contracts.

2.E. GOVERNMENT PROCUREMENT

which have been materially injured by imports. Either a definition of "materially injured" could be used or an industry might be considered automatically injured if imports exceed a certain percentage of domestic consumption.

2.F. IMPORT LICENSING

ISAC 13 generally supports the Licensing Agreement. However, ISAC 13 notes that restrictive licensing is frequently used in complement with quotas and other discriminatory non-tariff measures. These other measures are frequently excused in terms of balance of payments considerations or economic development concerns, but these justifications are often inappropriate or incorrect. The Committee recommends that the United States continue to urge liberalization of licensing requirements in countries where licensing is being used to restrict imports without justification.

2.G. SAFEGUARDS

Overall, the draft Code appears satisfactory and should provide relief to import-impacted industries. The failure to adopt a Safeguards Code, however, substantially diminishes the benefits expected to be derived from the other codes already adopted. Specific comments follow:

Chapter 1-Serious Injury and Causality

ISAC 13 questions the bracketed language in paragraph 2: "No positive determination of the existence of serious injury or threat thereof shall be made where these indicators are not adverse." Does this mean all of the injury criteria must be adverse? If it does mean this, ISAC 13 strenuously objects because an industry can be seriously injured although it may still be operating an at unreasonable level of profits. Because of this and other uncertainties, ISAC 13 recommends the inclusion in paragraph 2 of the criteria for injury contained in Section 201(b)(2) of the Trade Act of 1974 rather than the injury criteria in the draft code.

Further, ISAC 13 recommends the definition of domestic industry contained in Section 201(b)(3) of the Trade Act of 1974 be included in Chapter 1.

Chapter 2-Domestic Procedures

ISAC 13 recommends the inclusion of this chapter in the Safeguard Code.

2.G. SAFEGUARDS

In paragraph 4, ISAC 13 recommends that a one year period elapse before another safeguard investigation may be instituted.

Chapter 3-Conditions

ISAC 13 recommends that, in subparagraph (b), any safeguard measure may be effective for as long as 5 years and that provision be made for a three year extension.

ISAC 13 recommends that the recent representative period for determining the level of imports, in subparagraph (3), not be limited to one year. The determination of the representative period should be more liberal in scope.

Chapter 4-Nature of Safeguard Action

ISAC 13 supports selectivity, i.e., that a country have the right to restrict imports from certain countries if it can be shown that these sources are the cause of injury.

Chapter 4 bis-Use of Export Restraints

ISAC 13 recommends that Orderly Marketing Agreements be specifically included as one of the options of safeguard measures.

2.I. STEEL

ISAC 13 is opposed to the Steel Agreement because it is, inter alia an apparent departure of the United States from the traditional free enterprise system by entering into the concept of a controlled international economy. Safeguard provisions included in current U.S. law, if effectively enforced, should provide the protection being sought by supporters of the Steel Agreement.

Moreover, members of the Committee are concerned that inadequate mechanisms are provided in the MTN codes or the OECD International Steel Agreements to prevent "downstreaming" of products made from subsidized steel into our domestic and third country markets as a direct result of limitation on the sale of steel created by the Steel Agreement to which the United States is a signatory.

It is feared that such "downstreaming" of steel products, competitive with many items manufactured by industries represented by this ISAC, will be the tactic used by foreign steel producers to divert excess capacity into channels not specifically precluded by the Agreement.

Should significant "downstreaming" occur without prompt and fast means of containment by provisos of the Codes, thereby permitting a heavy influx of steel products at prices substantially less than like domestic items, serious damage

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2.I. STEEL

would be inflicted on small and medium-sized U.S. producers of such items.

Such a development would surely result in the exporting of jobs as American manufacturers who are able to afford it, caught in the squeeze between low-price foreign products of subsidized steel and the steadily increasing cost of domestic steel resulting in part from the Steel Agreement, would move production facilities offshore in order to meet competition. Smaller companies, unable to afford the cost of moving plants overseas, would likely be forced out of business.

2.J. SUBSIDIES/COUNTERVAILING DUTIES

The objectives of this code are highly desirable and fully supported by ISAC 13.

Although it does tend to control certain types of subsidies and their concomitant effect on traditionally recognized patterns of trade, it does not prohibit the widely used practice of value added and border taxes engaged in by many EEC countries, as contemplated by the Trade Act of 1974.

Additionally, the code clearly does not provide protection against "downstreaming," (flooding our markets with underpriced products made from excess capacity subsidized steel).

With regard to the Illustrative List of Export Subsidies, we strongly object to the exclusion of reference to GATT documents L/4423-25 dealing with U.S. counter-complaints against EEC practices which appeared in the previous draft dated December 27, 1978.

Since these are all related issues, future consideration of any one of them should be undertaken simultaneously with the other three in a common forum, preferably an International Tax Forum as suggested by our U.S. negotiators.

TARIFFS

ISAC #13 is characterized by numerous import-sensitive industries, and therefore, its major concern in the tariff area is with the U.S. MTN concessions. Committee members representing the scissors and shears and hand tool industries, in particular, are disappointed with the depth of cuts in U.S. tariffs on scissors, shears and certain hand tool items, in view of the adverse impact increasing imports are having on the domestic industries. We are particularly unhappy with cuts made in especially import-sensitive products, which were nominated by the industries for exceptions from U.S. cuts. These products are 648.81, 648.97, 649.37, 651.21, 650.87, and 650.91.

The ISAC #13 members representing the stainless steel flatware industry are pleased that stainless steel flatware items were excepted from tariff reductions in the Tokyo Round. These members feel the exceptions were justified in view of the recent International Trade Commission determination that imports of stainless steel flatware had reached 75 percent of domestic consumption (see Certain Stainless Steel Flatware, Report to the President on Investigation TA-201-30 under Section 201 of the Trade Act of 1974, USITC Publication 884, May, 1978). These flatware members believe that a further reduction in tariffs on stainless

steel flatware, following the recent removal of the tariff rate quota on stainless steel flatware, would have been fatal to the domestic stainless steel flatware industry.

For particular products of export interest to this ISAC, full reciprocity for U.S. cuts was not obtained from the EC. Other than with the EC, in several instances, a more acceptable level of reciprocity was achieved.

IMPLEMENTING LEGISLATION

Government Procurement: provide for exceptions from code coverage for industries that have been materially injured by imports. Either a definition of "materially injured" could be used or an industry might be considered automatically injured if imports exceed a certain percentage of domestic consumption.

Subsidies/CVD: provide for expedited procedures when a case involving subsidies is brought.

Reorganization: ISAC #13 members unanimously agree that diligent implementation, monitoring and enforcement of provisions of the agreement is of paramount importance in order for the United States to obtain optimum potential benefits from the MTN. In order to assure these objectives, we strongly support the concept for creation of a Department of International Trade as proposed by the Roth Ribicoff Bill (S. 377) and the counterpart Bill (S. 891) introduced by Senator Byrd.

2.G. SAFEGUARDS

Chapter 8-Developing Countries

ISAC 13 would strenuously object to special benefits for developing countries. The United States should not agree to make any special efforts to avoid safeguard actions on products of special interest to any of the more advanced developing countries, such as Taiwan, the Republic of Korea, Hong Kong and Singapore. Products of special interest to ISAC 13 which are exported by such countries include stainless steel flatware, cutlery, cooking utensils and hand tools.

2.H. STANDARDS

ISAC 13 members unanimously agree to the provisions set forth in the Standards Code and especially endorse the language set forth in Sections 2-4 (Technical Regulations and Standards).

Our endorsement of the Code is predicated upon the understanding that there is no relationship between the Standards Code and ongoing efforts of the Federal Trade Commission to replace our historical voluntary standards with Government-mandated standards via the pending FTC-proposed rule. We believe that standards setting should continue to be voluntary, and we categorically oppose intrusions into this area by the Federal Trade Commission or other governmental agencies.

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
OTHER FABRICATED METAL PRODUCTS
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #14)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

APRIL 25, 1979

Barry L. MacLean
Chairman, ISAC #14

1. OVERALL

ISAC 14 covers fabricated metals industries which, together, represent sales of over $50 billion. It includes such diverse industries as valves, actuators, fasteners, builder's hardward, chains, metal cooking and kitchen ware, plumbing war e, gas appliances, metal pipe fittings, metal stampings, structural steel fabrications (bridges, buildings and offshore platforms), reinforcing bars and cans.

A. CONCLUSION

ISAC 14 members believe that, on balance, the GATT negotiations will lead to a further deterioration rather than stabilization of or advantage to its member industries. During the period of the MTN discussions, ISAC 14's trade position has deteriorated to a deficit of over $1 billion as a direct result of control of quantity and price of steel imports through voluntary restraint and most recently the trigger price system. Specifically, we note:

1. The negotiations have generally failed to achieve the equalization of tariffs between trading nations for our products.

2. Our mature-type industries have been disadvantaged in the negotiations to favor agriculture, high technology, custom-made products and service industries--and steel producers.

3. The impact of GATT preferences, as well as GSP, for the LDCs plus the traditional reticence of the U.S. Government to actively use safeguard measures will gradually force the move of our basic industries from U.S. shores to other nations.

4. The acceptance of free, rather than free and fair, trade in a current world environment that includes government ownership of basic foreign industries, and high foreign duties leaves our industries in a precarious situation.

1. OVERALL

B. THREE SPECIAL RECOMMENDATIONS

We strongly recommend two changes in national laws for industries such as ours, and a further negotiation.

The national changes should be (1) the modification of U.S. antitrust laws to permit mergers among companies in the same or similar industries as they seek to survive; and (2) the granting of a tax credit for research and development, and for capital expenditures used in the development of new products and technologies.

The further negotiation pertains to taxes. A post-Tokyo round should be called and concentrate on such tax matters as VAT, DISC and related domestic structures. The current negotiation lacked a full and open treatment of this critical area.

C. OVERALL SUMMARY

The fabricated metals industries represented on ISAC 14, manufactured over $50 billion of products in 1978. ISAC 14 covers such diverse items as valves, actuators, fasteners, hardward, metal cooking and kitchen ware, plumbing ware, gas appliances, chains, metal pipe fittings, metal stampings, structural bars and cans. These industries are more vulnerable since foreign countries ship products made of metal rather than shipping the primary metal itself. By and large, the products of this ISAC are experiencing a trade deficit which threatens to grow further in the face of the tariff cuts and the international codes of conduct negotiated in Geneva.

1. OVERALL

ISAC 14 industries consume approximately 30% of U.S. domestic steel's output. Steel's price and availability have an enormous impact on the fabricated metals industry. Our industries also use large quantities of aluminum and copper. It is estimated that the $500 million trade surplus enjoyed by ISAC 14 industries in the late 60's has deteriorated to a more than $1 billion trade deficit in 1978 due to unfair trade practices overseas.

We believe that the net impact of the multilateral trade negotiations and current unfair trade practices are accelerating the movement of the manufacture of our volume product lines to offshore sites to take advantage of lower labor costs and lower prices of steel in foreign countries.

We believe the current drop in U.S. tariffs will further increase the vulnerability of our industries from an already seriously deteriorating situation as a result of the Kennedy Round.

We see very little positive benefit to our industries in the results of the trade negotiations. Furthermore, we find much that can and will be harmful to our industries in the months and years ahead if the results of the Geneva negotiations are implemented.

We are very concerned about the final reductions in our duties.

2.A. AIRCRAFT

We feel this Agreement is in the overall interest of the United St. We will monitor its implementation and study its impact on industries related to aircraft.

2.B. COUNTERFEITING

We congratulate our Government on undertaking this proposed agreement. The current draft aims in a direction we applaud. We wish the Government success and will assist in any manner possible.

2.C. CUSTOMS VALUATION

ISAC 14 companies have found current customs valuation procedures now in force to be effective generally and new procedures that would further guarantee accuracy and fairness would be supported. However, since the inception of ISAC 14, the majority of members have opposed F.O.B. customs valuation procedures and have urged adoption of the C.I.F. valuation method by appropriate legislation.

2.D. FRAMEWORK

If U.S. policy is to join the international move toward assisting the development of LDCs, then the U.S. volume markets of ISAC 14 will gradually be absorbed by the LDCs. The domestic legislative implementation procedure of FRAMEWORK, therefore, becomes extremely important in "buying time" for the "phaseout" to occur gradually and the adjustments be made.

1. The GATT PANELS should be comprised of representatives from business, labor and consumer groups as well as Government.
2. Domestic (USA) programs are needed to provide financial and other assistance to ISAC 14 industries for increasing their technology, developing specialty products, retraining labor, etc. and aiding workers to find new jobs.
3. Insistence that domestic companies be permitted to build plants in LDCs and receive equal treatment with LDC firms.
4. Direct assistance programs for, especially, small firms in trying to take advantage of export markets which will exist in the short term abroad and before LDCs establish competing industries.

2.E. GOVERNMENT PROCUREMENT

The Government Procurement Code is a cause of serious concern to our industries. We are concerned that it does not assist us in a balanced way in being able to sell to foreign governments.

The developing countries which are a growing source of imports of the products of our industries represent a special problem to us. These countries may, if they subscribe to the code, be accorded a period of time when they do not have to open their government procurement programs to foreign sources. With lower labor, steel, aluminum, copper and other input costs (often in government-owned-or-controlled metal producing plants), we question whether opening our government procurement to sales from such countries can ever result in reciprocal treatment where ISAC 14 industries will be able to sell equally to foreign governments. Further, as the recent study of the Federal Preparedness Agency of the U.S. indicated, a national security problem will arise if imports of certain metalworking products reduce domestic capacity below a "safe" level and/or if government procurement offices become dependent upon overseas metalworking sources.

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2.F. IMPORT LICENSING

We are dismayed that the proposed code on licensing dealt with the administration of licensing procedures rather than the elimination of such procedures. If this is to be the situation, we favor very strict enforcement of the proposed rules. Full disclosure by the U.S. Government is essential of problems which American firms encounter with foreign licensing authorities. We fully expect that the U.S. Government will act expeditiously to prosecute complaints against foreign licensing authorities which may be acting inconsistently with the code.

2.G. SAFEGUARDS

We wish to be certain that the Safeguards Code will, when translated into implementing legislation, not bring about changes in the U.S. "escape clause" procedures which will make it even more difficult to secure import relief than at present. To date, only 7 industries out of approximately 40 which have gone through the entire escape clause procedure under the Trade Act of 1974 have received import relief. One of these, industrial fasteners, is represented in our ISAC. Instead of any weakening of the present escape clause, we recommend that effective action be taken to strengthen the present escape clause.

A most important amendment to the present escape clause procedure would be one which would extend for an additional period of time beyond that provided for in the Trade Act of 1974, the possibility of import relief under the escape clause. At present such import relief is limited to an initial period of not more than five years; in only one case has import relief actually been provided beyond three years. The present procedure also provides for the possibility of one three-year extension of import relief. We believe that at a minimum, import relief should be possible for a total period of eleven years.

In addition, we do not see effective language in the proposed codes dealing with "downstreaming," the shipment of products made of subsidized or dumped steel into the United States and third country markets. We recommend that this subject be dealt with specifically.

We are also concerned that the draft Safeguards Code provides for special and differential treatment for developing countries. We are opposed to this concept considering the growing role which developing countries play in imports into the U.S. market.

2.G. SAFEGUARDS

Finally, we are opposed to any international consultation mechanism that might have the effect of delaying imposition of U.S. safeguard measures. We believe that the ability to take unilateral action must in no way be restricted by this code.

2.H. STANDARDS

The code's proposal of minimizing the use of standards as trade barriers is endorsed. However, we must express deep concern regarding proposals formally announced by the Federal Trade Commission as creating obstacles to a successful implementation of the GATT objectives.

We recommend STR actively and publicly become involved in the upcoming FTC hearings.

We also recommend that Congress take appropriate action in opposing the proposed FTC Regulations on Standards and Certification.

2.I. STEEL

THE OECD STEEL COMMITTEE

We are sympathetic to the import problems faced by the basic steel industry. However, we do not believe that the mechanism adopted for dealing with the steel import problem (i.e., the trigger price mechanism and escape clause import relief for the specialty steel industry), meets the problems faced by the steel industry from the point of view of its customers. In fact, this type of protection provided for the basic steel industry actually works to the detriment of its customers as the foreign producers shift the emphasis of their exports toward semi-finished or finished steel products.

Further, we question the concept of "international committees" which have a growing impact on the allocation and pricing for primary products on a global basis. All ISAC 14 members agree that in the several months since the trigger price system has been in effect, steel prices have increased by more than 20%--which is certainly more than if the free market had prevailed. If, in the case of steel, the LDCs do not join the Committee and if effective control is not exercised in the area of secondary products made from that primary product, then the concept encourages nations (especially LDCs) to concentrate on and ship secondary products (e.g., using subsidized steel) and avoid joining the committee. We believe this is especially true for LDCs with large natural deposits ... e.g., iron ore.

Further, the nations joining the committee would still be impacted by imports of primary products (e.g., steel) from the LDCs and are prone to take action to stop such imports. This further encourages nonmembers to use the "downstreaming" approach.

2.I. STEEL

If the times are such that such committees (not too unlike a cartel) are to be tested as a possible avenue for the future, we strongly recommend they be incorporated directly under the GATT--including the OECD Steel Committee.

Further, we recommend that direct recognition of "products made of steel" be directly incorporated into the OECD Steel Committee agreement to give direct recognition to "downstreaming" aspects. Otherwise, the agreement as viewed regarding the proposed Subsidies, Antidumping and Safeguards Codes will damage the domestic and export viability of "products made of steel."

2.J. SUBSIDIES

The Subsidies and Countervailing Measures Code is very important as it relates to the ISAC 14 industries. We are very concerned and cannot support the basic action taken by the U.S. to agree to the requirement that there be an injury finding before countervailing duties can be imposed after it has been determined that a foreign government provides subsidies. We are painfully aware of the experience of other industries which have had to prove injury before the International Trade Commission before they have been able to secure relief from import competition. Aside from the time and expense involved, the quirks of the procedure are of little assurance to American industry that injurious unfair competition will be found by the Commission.

A second problem which our ISAC sees in the subsidies code for the products for our industries, relates to the problem of developing countries. The code provides for special and differential treatment for the developing countries. Our industries are no different than many other industries in that we have been adversely affected by a growing volume of imports from developing countries. Indeed, the real threat exists from even larger imports from such countries in the years ahead as subsidized steel is converted to finished product overseas. Yet, this code will provide a means by which developing countries would not have to subscribe to the requirements of the developed countries.

In addition, a third problem is that we do not see effective language is either the proposed Subsidy or Antidumping Codes to deal with "downstreaming" into United States and third country markets. We recommend Congress and the Administration redraft sections of each to specifically include and highlight this subject. Otherwise, the codes will be very difficult to enforce under the "implementation" language as it relates to "products made of steel."

2.J. SUBSIDIES

If the purpose of the subsidies code is to provide a basis for conduct by the world trading community that would eliminate what even under GATT is considered to be unfair trade practices, we see little justification for, and indeed have great concern with provisions which give some of our strongest competitors a "free ride" for a period of time. We feel that the Generalized System of Preferences, which accords duty-free treatment to developing countries, is sufficient, and indeed may be more than sufficient, to take care of the special problems of the developing countries.

The bitter experience of many industries which have attempted to secure countervailing duties, suggests to us that in the implementing legislation for a subsidies code, provisions should be made to improve the administration of the countervailing duty statute. Such improvement should prohibit the Treasury Department's practice of reducing calculated subsidies. In addition, the legislation should place a prohibition on ex parte meetings between domestic government officials and representatives of foreign countries or firms involved in a countervailing duty dispute, unless a record is kept of such meetings and is available to petitioners. Information submitted by foreign parties to the Treasury Department should be available to the domestic industry involved in the case in order to give the domestic petitioners an opportunity to rebut the foreign parties' contentions. Currently, this information is not distributed to the domestic parties involved in a case. Legislation should require Treasury to verify all information, including that which is obtained from a foreign government, before it can be used in making a determination. The reasons for Treasury's determinations should be published.

2.J. SUBSIDIES

in the Federal Register and Treasury should publish periodic reports on foreign subsidy practices in the Register.

The right to seek judicial review of Treasury determinations should be expanded beyond its present limits to include trade unions and trade associations. Currently only manufacturers, producers and wholesalers can gain judicial review. Judicial review ought to be expanded to include direct appeal of the amount of duty imposed, and of a suspended investigation.

We believe that the 12 month period of time which the present statute provides for making final determinations with regard to foreign subsidies, is much too long and can be appropriately shortened. We believe that the concept found in the present statute of allowing the Treasury Department to reduce subsidies which they find through various offsets, is inconsistent with the objective of offsetting through countervailing duties the blatant foreign subsidies which exist throughout the world. These are just some of the provisions we would recommend to amend the countervailing duty statute to make it the kind of effective instrument which Congress intended.

Some of our industries have countervailing duty petitions pending with the Treasury Department. We feel that the consideration of these petitions should in no way be prejudiced by the coming into force of the subsidies code. Accordingly, we strongly recommend that all countervailing duty petitions which may be filed prior to the effective date of the subsidies code, not be dealt with under the new code, but rather under the existing statute.

2.J. SUBSIDIES

In no way should DISC be dismantled. It is a useful tool for many American companies which export. DISC is a loan to American firms (especially smaller firms) not dissimilar to loans by the Export-Import Bank. With the great concern for export expansion, any action to dismantle DISC would be counter-productive.

3. TARIFFS

The negotiations have generally failed to achieve the equalization of tariffs among trading nations for our products. We believe the current drop in U.S. tariffs will further increase the vulnerability of our industry from an already seriously deteriorated situation as a result of the Kennedy Round and due to the erosion of specific and compound duties. We are very concerned about the final reductions in our duties.

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON CONSTRUCTION, MINING, AGRICULTURAL, AND OIL FIELD MACHINERY AND EQUIPMENT FOR MULTILATERAL TRADE NEGOTIATIONS (ISAC #15)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

John J. Benson
Chairman, ISAC #15

OVERVIEW

Members of this Committee consider this industry in no better a position at the end of the MTN than at the onset of the negotiations. It remains to be seen if the various instruments generated in the MTN relating especially to the Subsidies, Standards, and Licensing codes can even function effectively. The ISAC is not prepared to speculate on the basis of today's world as to future benefits which may accrue to this industry. The immediate effects of the tariffs package, for instance, seem to place this industry in a weakened position.

If pursued by the U. S. in an aggressive manner, benefits may be obtained from the Subsidies Code especially in the area of subsidies to exports competing with U. S. exports in third country markets. Additionally, Government Procurement Code provisions for transparency and the prevention of illegal bidding practices may benefit this industry.

TARIFFS

ISAC 15 has carefully reviewed the tariff offers and concludes that it appears that the Administration has lost ground in terms of narrowing the overall disparity existing between U. S. and foreign tariffs. This ISAC has repeatedly requested that U. S. concessions be made on a reciprocal basis. The current offers indicate that the Administration did not succeed in reducing, on an equitable basis, tariff rates existing in any foreign markets.

One example of U. S. inability to gain equity and reciprocal access to foreign market is Japan. The Japanese heavy equipment industry is competitive in the world market, yet both tariffs and non-tariff barriers limit the ability of U. S. firms to export to this market. At the onset of the negotiations, the tariff disparity between the U. S. average rate of duty and Japanese average rate of duty was 1% (U. S. - 5% versus Japanese - 6%). The final package indicates this disparity has increased to 2%. Currently the balance of trade with Japan is strongly in Japan's favor, with U. S. imports from Japan totaling $327 million in 1978 and U. S. exports to Japan only $71 million.

Additionally, the key objective of reducing EC tariffs on off-highway trucks was not attained. As a consequence, the U. S. industry must contend with a rate of duty of 20% on exports to the EC. This completely restricts U. S. shipments to this market. It should be noted that the U. S.

TARIFFS

rate of duty on these products was reduced 50% to a level of 2.5%.

There also continues to be a large disparity between the Canadian tariff rates and the corresponding U. S. rates of duty. This is to some extent mollified by some Canadian concessions in the "Made in Canada" and "Canadian Machinery Program" which may, in the future, benefit certain sectors in this industry.

1. OVERALL SUMMARY

ISAC 15 believes that any proposed GATT agreements will be only as good as any follow-up mechanisms designed to force adherence to the agreements.

This ISAC believes it is critical for the implementing legislation to recognize that historically the trading partners of the U.S. have not always acted in the good faith our own export policies have traditionally exhibited. For that reason, retribution capabilities by the U.S. Government should be spelled out clearly and designed to function quickly.

We believe the Steel Agreement, which incidentally was not subject to comment by steel users, is punitive and disadvantageous to users and the U.S.A. commitment to expanded exports. This ISAC's products are made principally of steel (up to 85% of material content) and this ISAC is also a principal U.S. exporter (up to $8 billion annually).

Regarding the Subsidies document, we believe the word "deferral" must be removed from the code and the question of direct and indirect taxes should be deferred for discussion in another forum with GATT members.

ISAC 15 is concerned that nothing in the documents addresses the problems faced in many developing countries today where those countries are prepared to close their borders to imports if local production will be undertaken.

1. OVERALL SUMMARY

Many examples were discussed such as Mexico, Brazil, Venezuela, Argentina, Turkey, Korea, Indonesia, etc. We feel the U.S. should register opposition to such actions in the strongest possible terms and be prepared to take punitive action in those instances where U.S. exporters can demonstrate such actions are excluding them from their traditional markets.

With exceptions noted, ISAC 15 subscribes to the documents available at this writing.

2.A. AIRCRAFT

The Committee has considered the issue of Aircraft and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

2.B. COUNTERFEITING

The Committee has considered the issue of Counterfeiting and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

2.C. CUSTOMS VALUATION

The members of ISAC 15 are in agreement with the stated goal of the agreement on Customs Valuation inasmuch as it is designed to provide the exporter and the importer with a system of customs valuation based on transaction prices thereby providing a higher degree of uniformity and certainty in the application of customs valuation.

Our understanding of the code is that there will not be an increase in the transaction price under Article 8. If it does allow for it, however, we feel that it will nullify any tariff reductions.

We are pleased that the code allows recourse from arbitrary evaluation. However, there is a concern that exporters will be exposed to costly and protracted decision making for evaluation of product sales between related parties.

2.D. FRAMEWORK (GATT REFORM)

ISAC 15 endorses the general intent of the Framework code and applauds the idealistic concepts contained therein.

ISAC 15 has real reservations regarding the enforcement of the penalties or punitive actions when the legal decisions of work panels or consulting procedures have been finalized.

We repeat the comment made in other sections of ISAC 15 reports to the need for procedures to assure that all MTN participant countries become signatories to the agreement and will in fact abide by the intent of this agreement.

2.E. GOVERNMENT PROCUREMENT

ISAC 15 endorses the objective of securing improved opportunities to compete for additional sales to foreign governments. This endorsement is given even though we recognize that this will have little positive effect on the industries represented by ISAC 15. Further, we endorse the proposed code rules which are designed to discourage discrimination in all stages of the procurement process, i.e., specifications, advertisement of proposed purchases, time for submission of bids, open evaluation of bids and access to information concerning the basis upon which awards were made.

We feel it is extremely important that the proposed uniform threshold level of purchases covered by any agreement be kept as low as possible in order to eliminate the possibility that the U.S.A. would be opening its procurement of commodities to foreign suppliers while foreign procurement is being sheltered from American competition by use of high threshold values.

Of equal importance in our opinion is the need for procedures to assure that all signatories to the agreement are <u>in fact</u> abiding by the intent of the agreement and are actually giving foreign firms equal opportunity and consideration in their procurement practices.

2.F. IMPORT LICENSING

ISAC 15 looks favorably on the Import Licensing agreement and feels this should expedite procedures. We believe it to the U.S.A.'s advantage to encourage all MTN participants to sign.

2.G. SAFEGUARDS

The nature of the distribution process in the Construction Equipment Industry does not ordinarily foster circumstances requiring "Safeguard Procedures" as outlined in the draft code available as of this writing. At least two factors, however, should be borne in mind:

1. Historically, few if any countries except the U.S.A. have troubled to make use of GATT Article XIX to afford domestic procedures temporary relief from injurious import competition. Article XIX provides an international procedure for handling such cases. Instead, other countries, unilaterally, have set in place abrupt and sometimes inordinately harsh measures, virtually without remotely acceptable notice. This almost universal disdain of Article XIX procedures by countries other than the U.S.A. suggests that even the new proposed code will work only so long as other countries have no need to use it and, that, if any when a need does arise, the new code's chance of success will likely be the same as the earlier one. Consequently, it may be advantageous to the U.S.A. to propose countermeasures to recalcitrants every bit as harsh as those adopted by the country ignoring the new code.

2. Concerning "Developing Countries": while this ISAC (15) agrees in principle with procedures encouraging their

2.G. SAFEGUARDS

accelerated but orderly trade growth, it cannot subscribe to any attitude which would, in effect, treat them like pampered unruly children. They are attempting to move into the family of mature world traders and, as such, if they desire preferential treatment, their deportment should acknowledge the privileges being extended them. With that in mind, while developing countries perhaps should be accorded some flexibility and partial immunity from safeguards procedures relating to moving their products into world trade channels, if anything, flagrant abuses should be met by the entire GATT community. If these GATT negotiations presume to establish a more harmonious international community of trading partners, disruptive practices by a partially immune candidate for a major export posture, should not be condoned.

2.H. STANDARDS

ISAC 15 agrees with and promotes the codes sections dealing with standards, with the following comment:

1. Section 2.1 states the purpose of the code--to eliminate any previous double standard system between trading partners (adherents).

2. Section 2.3 promotes the international harmonization of technical regulations or standards, through the active participation of such bodies as ANSI, ISO, and other standard-setting bodies.

3. We applaud the words of section 2.4 proposing that any standards promulgated should be based on performance, not design, criteria.

4. Section 2.5 proposes transparency in standard or regulation making. This will permit complete participation from all interested parties, both within and without the country making the rules.

5. Section 5.2 encourages acceptance of certification of compliance in the country of origin, either by an acceptable national certifying body, or even self-certification by the exporter. This will eliminate the time and expense-consuming local certification process in the country of importation.

2.H. STANDARDS

6. Section 7.2 again re-emphasizes that certification systems shall grant equal access to all suppliers, regardless of country.

If the proposed standards code is adopted, it will foster much better understanding between standard-setting bodies, as well as increase trade for all adherents.

2.I. NONTARIFF CODES (STEEL)

Although instructions preclude consideration of the steel sector code from Congressional action, ISAC 15 strongly feels certain concerns of the Steel Code should be expressed as part of our report for review by Congress.

The products of ISAC 15 use a higher-than-average percentage of steel usage in the manufacture of its products--as high as 85% of product content, much of which is expensive alloy steel plate.

While fully cognizant of the many problems of the steel industries, to be competitive, U.S. domestic steel users need the flexibility to source their steel supply on a worldwide basis to obtain the lowest possible cost in a free world market price mechanism. Separate international agreements such as the steel agreement incorporate a system of international economic planning and "cartel" type characteristics impacting on both supply source and price. For example, the "trigger" price mechanism used by the U.S. with apparent approval of the agreement in effect sets the price of imported steel (15% increase through the trigger price since 1977). Foreign suppliers able to produce steel legitimately at lower costs are unable to supply U.S. steel users at prices lower than the trigger price. The trigger price results in higher priced products to U.S. consumers; adds more cost to U.S. domestic steel users' products for competing in export

markets, (especially when marketing in third country markets against other steel using countries' products that either have no similar trigger price system on their imported steel or supply their manufacturers with steel from government owned or subsidized domestic steel producers).

The steel agreement has the potential through supply and price controls to penalize the production efficiencies and growth potential of the steel industries in other countries not party to the agreement and who prefer the "free market" principle. The lack of consideration of these other steel producing countries and the consideration of "products made of steel" could move these non-agreement countries (LDC's) to "downstreaming", that is, if they are unable to export their steel then they will turn their steel to products made of steel for export to the U.S. and third country markets, products most likely subsidized by their steel industry.

In summary we believe the Steel Agreement to be counter-productive to liberalizing trade, contrary to the intent of the GATT; results in continued inflationary rise in steel prices; includes elements to control source of supply of steel type and encourages non-agreement countries to move from steel suppliers to the exporters of products made of steel.

2.I. NONTARIFF CODES (STEEL)

While the separate Steel Agreement may satisfy the sectoral requirements outside the MTN, ISAC 15 feels other industry sectors may be disadvantaged and therefore recommends that Congress consider in their implementing legislation language to ensure adherence to the GATT rules and Codes, and which in case of conflict between interpretation of the Steel and GATT agreements, that the latter would prevail, and that "products made from steel" be added to and permitted in the Steel Agreement.

2.J. NONTARIFF CODES (SUBSIDIES)

The current draft of the Countervailing Duty and Subsidy Code (CVD/SUB) concerns the members of ISAC 15 in the illustrative list, definitions and footnotes pertaining to the questions of direct vs. indirect taxes as prohibitive subsidies.

ISAC 15 has been assured that the Domestic International Sales Corporation (DISC) tax deferral on U.S. exports is not "negotiable" in the MTN as no major concessions have been made so far by GATT members. The language in the code, however, presents the possibility for unilateral action on the part of the U.S. to eliminate DISC, or GATT members to countervail against DISC. Specifically, the code includes "deferrals" or direct taxes as a subsidy (DISC is a deferral); the document, therefore, provides the mechanism for the removal or repeal of DISC. Therefore, the ISAC recommends that "deferral" be removed from the code.

This is the interpretation by ISAC 15 of Paragraph (d) version 1 Annex A, Illustrative List of Export Subsidies (p. 25) with footnotes 1 and 2 following on p. 27 . Further, it is interpreted by ISAC 15 that should version 1 be accepted, the U.S. would be prohibited from rebating the Value Added Tax (VAT) to U.S. exporters (while other countries allow the rebate to their exporters) should the U.S. move at some future date to a VAT system to fund social security. ISAC 15 objects

2.J. NONTARIFF CODES (SUBSIDIES)

strongly to version 1 and its footnotes and recommend to Congress that implementing legislation provide for the formation of a GATT committee as a forum for members to study the direct and indirect tax practices of members and its impact on international trade. ISAC 15 also recommends the implementing legislation clearly exempts DISC from this code as an exception pending the outcome of a future GATT tax forum.

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U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
OFFICE AND COMPUTING EQUIPMENT
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #16)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 18, 1979

Oliver R. Smoot, Jr.
Chairman, ISAC #16

1. OVERALL

The Office and Computing Equipment Sector (ISAC 16) had $4.6 billions of exports in 1978 and a positive trade balance of $2.7 billions. Therefore these agreements are key to our continued success in trade. The ISAC's position is that a trade agreement on tariffs and nontariff measures must reasonably meet our original objectives.

The judgment of the sector is that the nontariff agreements individually provide reciprocity and acceptable equity, subject to the qualifications made in each statement.

This sector is vitally concerned with obtaining accelerated phasing of the tariff reductions negotiated to date. The satisfactory resolution of this issue is critical to achieving overall balance for this sector.

2.A. AIRCRAFT

ISAC 16 supports the Aircraft Agreement. It provides a good model commendable to other sectors including ours.

2.B. COMMERCIAL COUNTERFEITING

The Committee has considered the issue of commercial counterfeiting and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

2.C. CUSTOMS VALUATION

ISAC #16 supports this code as a fine step forward in reducing a nontariff barrier. A positive valuation system should reduce the uncertainty often experienced by U.S. exporters who have had to deal with arbitrary appraisements by customs authorities throughout the world.

The benefits of the code to world trade would be significantly increased if all countries participating in the MTN sign and implement the code at this time.

The introduction of the concept of "generally accepted accounting principles" into customs valuation is an important breakthrough as it supports a positive valuation system.

2.D. FRAMEWORK

ISAC #16 believes this agreement is of high potential. It sets up practices and rules that will be beneficial to world trade.

The key to this agreement is its acceptance by the LDC's; the broader their adoption, the more beneficial to world trade these changes will be.

2.E. GOVERNMENT PROCUREMENT

ISAC #16 believes this code offers access to foreign markets not open currently to U.S. industry, and specifically not now open to this sector. The key to its success will be monitoring by a competent, alert, and agressive U.S. Government agency.

The full transparency of the Government Procurement Code at 150,000 SDR's is acceptable to ISAC #16, but the ISAC recommends that the U.S. work toward lowering of the threshold and inclusion of additional entities by all countries.

The national security product exemption must be closely monitored to prevent its use to make broad product exclusions from the code by signatory countries.

Overall, ISAC #16 believes the Government Procurement Code is a sound base upon which to build by adding signatories. (especially LDC's), entities, and lowering the threshold.

The ISAC recommends that the issue of government procurement of services be addressed at the three-year review.

2.F. LICENSING

ISAC #16 supports the code on licensing as drafted by the Office of the Special Representative for Trade Negotiations.

2.G. SAFEGUARDS

ISAC #16 supports the objective of the U.S. to ensure that all safeguard actions are taken pursuant to the Safeguards Code. The Committee strongly recommends that selective safeguard measures be controlled tightly and be authorized only with the acceptance of the affected country or after approval by a relevant GATT committee. Further, the Committee recommends strongly that developing countries have no special and differential treatment for selective safeguards. Due to the open issues in this code, no final position can be taken at this time.

2.H. STANDARDS

ISAC 16 strongly supports the Standards Code. We are pleased that it opens the certification process and thus helps preclude manipulations which can descriminate against United States' products. Further, provisions for a central information agency open for review and comment those standards being developed in other countries.

The implementing legislation should contain a finding that the voluntary standards program serves the United States well and should be continued, with the role of the Federal Government limited to one of providing support to the present voluntary effort.

2.I. STEEL

The Committee has considered the issue of steel and believes the matters covered by the agreement are not of significant interest to this sector. For this reason, it does not appear appropriate to report on the agreement.

2.J. SUBSIDIES AND COUNTERVAILING MEASURES CODE

ISAC #16 supports the subsidies and countervailing measures code on the basis that it will promote the economic interests of the United States and other signatories.

Specifically, we believe one of the principal benefits of the code will be in the harmonization and standardization of the practices of the signatories. Of particular assistance will be definitions contained in the code and the illustrative lists of export and domestic subsidies. Also of benefit will be the ability of the signatories to rapidly impose provisional measures even though subsidy investigations are not yet completed. This feature, as well as provisions for improved dispute settlement procedures, should afford considerable protection to U.S. interests.

The members of ISAC #16 welcome the fact that only those countries that sign the code and accept its obligations will benefit from its provisions. We also note with approval that the U.S. DISC tax provisions are not impacted by the code.

2.J. SUBSIDIES AND COUNTERVAILING MEASURES CODE (Continued)

We see no difficulty in the United States' accepting a material injury test as defined in the code and believe it is in the best interest of our country to have conforming changes made in our antidumping statutes. Clearly, common subsidy/dumping rules adopted by the U.S. and the other signatories would be advantageous to all.

ISAC #16 also finds particularly useful those features of the code which are designed to protect exporters from unfair competition in third countries and from being shut out by import substitution arrangements. The ability to act rapidly when these situations occur and without a showing of injury should be of considerable importance to U.S. exporters.

Preliminary Report on Tariffs

The Office and Computing Equipment Sector (ISAC 16) had $4.6 billions of exports in 1978 and a positive trade balance of $2.7 billions. Therefore, these agreements are key to our continued success in trade. The ISAC's position is that a trade agreement on tariffs and nontariff measures must reasonably meet our original objectives.

The Committee's tariff objective was to move substantially toward parity by harmonization of tariffs in our products. The preliminary judgment of the Committee is that, subject to the qualifications stated below, the tariff agreements reached individually with the developed countries provide reciprocity and acceptable equity within the sector.

The Committee's objectives for significant reductions in developing Country tariffs were not met because the countries of key interest to the sector (particularly Mexico and Brazil) have not made substantial offers as requested by the U.S. At this time, over forty developing countries have duties at least twice those of the U.S. on this sector's major products.

The Committee's judgment as to the overall effectiveness of the tariff negotiations will hinge on the outcome of the negotiations on staging of the tariff cuts. The Committee insists that the tariff cuts take place as soon as possible

Tariffs

within the eight year staging period and that the U.S. not accept any formula beginning from other than currently applied rates. Prolonged staging or staging with the major reductions to come in the later years would largely nullify the benefits in this rapidly changing high technology sector. This concern applies especially to Canada, Japan and Spain. Moreover, termination of the agreed upon reductions should not be permitted after five years as may be contemplated by some countries. Rounding of all tariff cuts should be only to the nearest one-tenth of a point.

The ultimate value of the tariff agreements, at least for our sector, must be viewed against the continuing redefinition of tariff classifications taking place in the Customs Cooperation Council and Canada's Nomenclature. Technical changes in classification definitions threaten to undermine many of the gains achieved. Classification changes can seriously and adversely affect the sale of our sector's products abroad. For this reason, we firmly believe that "impairment" proceedings to compensate for any losses which may be incurred by this sector are not an acceptable substitute.

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U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
MACHINE TOOLS, OTHER METALWORKING EQUIPMENT,
AND OTHER NONELECTRICAL MACHINERY
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #17)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS

April 18, 1979

William E. DeCaulp
Chairman, ISAC 17

(815)

REPORT OF THE INDUSTRY SECTOR ADVISORY COMMITTEE ON MACHINE TOOLS, OTHER METALWORKING EQUIPMENT, AND OTHER NONELECTRICAL MACHINERY (ISAC 17) TO THE PRESIDENT, THE CONGRESS, AND THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

EXECUTIVE SUMMARY

In the attached preliminary reports, ISAC 17 has implied its support of the negotiations and the apparent results. We believe, by and large, industry advice has been considered regardless whether or not followed. Some of the proposed codes are incomplete to the point where we must reserve our approval or disapproval.

Although generally approving the proposed codes we must emphasize the concerns and reservations set forth in our individual reports. Without a rigorous enforcement mechanism to oversee the operation of these codes, a clear international understanding of the terms of the codes, and equitable implementation of the code by all signatories little benefit will accrue.

We draw special attention to our reports on the proposed subsidies code, government procurement, steel, the safeguards code, the aircraft agreement, and counterfeiting code.

ISAC 17 is convinced that the implementing legislation for each of the codes and agreements is vitally important. We stress both our belief that the advisory committees should fully participate in the drafting of the legislation and our willingness to participate in such drafting.

In this report and in all of ISAC 17's reports we stress the importance and necessity of the enabling legislation, deeming such such legislation to be of equal significance as the proposed codes. We repeat our desire and our willingness to participate in the formulation of the enabling legislation.

REPORT OF THE INDUSTRY SECTOR ADVISORY COMMITTEE
ON MACHINE TOOLS, OTHER METALWORKING EQUIPMENT,
AND OTHER NONELECTRICAL MACHINERY (ISAC 17)
TO THE PRESIDENT, THE CONGRESS, AND THE SPECIAL
REPRESENTATIVE FOR TRADE NEGOTIATIONS

2.A. AIRCRAFT

ISAC 17 must express its concern about the proposed aircraft agreement.

1. We must express our opposition to the concept that products which may become part of an aircraft, but which are specifically provided for in the TSUS, should be included in a special aircraft agreement. These are the products of our industries for which we have been solicited advice since the chartering of ISAC 17. We do not believe that end-use application, (or purported end-use application), of products identified in the TSUS under their own headings should be lumped with aircraft and subject to special treatment with respect to government procurement, subsidies and the other important matters which have been the subject of our committee's activities over the years.

2. We are concerned that if the aircraft industry feels that it will not receive adequate protection against subsidies, offset requirements and other unfair trade practices from the codes adopted in this negotiation that no industry therefore will receive protection and therefore the codes are inadequate.

2.A. AIRCRAFT

3. This aircraft agreement requires substantial concessions by the industries represented by ISAC 17 and we do not see that it provides any appreciable return for the concessions granted.

4. We perceive two possible ill effects: (1) "parts" and "fabricated components" would be imported and diverted for non-aircraft use; (2) importation for aircraft use of carbon copies based upon application engineering and design by the U.S. parts manufacturers. We are not as optimistic as certain government personnel appear to be as to neither of these taking place because of possible claims of illegality. Even a very large and costly policing effort would very likely be ineffective.

We are not opposing special treatment for the aircraft industry, but do oppose the inclusion of other industries in an agreement with what we believe would be the inevitable result of advantage to the aircraft industry and disadvantage to other industries such as those represented in ISAC 17.

REPORT OF THE INDUSTRY SECTOR ADVISORY COMMITTEE
ON MACHINE TOOLS, OTHER METALWORKING EQUIPMENT,
AND OTHER NONELECTRICAL MACHINERY (ISAC 17)
TO THE PRESIDENT, THE CONGRESS, AND THE SPECIAL
REPRESENTATIVE FOR TRADE NEGOTIATIONS

2.B. COUNTERFEITING

ISAC 17 might support a code in this area subject to the following:

1) the code should incorporate adequate protection with respect to counterfeiting of copyright and proprietary design even though such design may or may not be subject to U.S. patent or copyright protection;

2) forfeited merchandise should be disposed of in a manner to eliminate harm to the owner of the trademark, trade name, model, copyright or design;

3) no use of the forfeited merchandise should be made without the consent of such owner;

4) provision should be made for such owner to have reimbursement of expenses inasmuch as the burden is on such owner to initiate and prosecute the determination of counterfeiting.

In this report and in all of ISAC 17's reports we stress the importance and necessity of the enabling legislation, deeming such legislation to be of equal significance as the proposed codes. Without a rigorous enforcement mechanism to oversee the operation of these codes, a clear international understanding of the terms of the codes,

and equitable implementation by the code signatories, little benefit will accrue. We repeat our desire and our willingness to participate in the formulation of the enabling legislation.

REPORT OF THE INDUSTRY SECTOR ADVISORY COMMITTEE
ON MACHINE TOOLS, OTHER METALWORKING EQUIPMENT,
AND OTHER NONELECTRICAL MACHINERY (ISAC 17)
TO THE PRESIDENT, THE CONGRESS, AND THE SPECIAL
REPRESENTATIVE FOR TRADE NEGOTIATIONS

2.C. CUSTOMS VALUATION

We must repeat our comment that application of the code to imports from a government controlled economy or industry will pose substantial problems. Subject to this concern, ISAC #17 endorses the proposed code.

In this report and in all of ISAC 17's reports we stress the importance and necessity of the enabling legislation, deeming such legislation to be of equal significance as the proposed codes. We repeat our desire and our willingness to participate in the formulation of the enabling legislation.

REPORT OF THE INDUSTRY SECTOR ADVISORY COMMITTEE
ON MACHINE TOOLS, OTHER METALWORKING EQUIPMENT,
AND OTHER NONELECTRICAL MACHINERY (ISAC 17)
TO THE PRESIDENT, THE CONGRESS, AND THE SPECIAL
REPRESENTATIVE FOR TRADE NEGOTIATIONS

2.D. FRAMEWORK

The Committee is generally supportive of the efforts made by the Government. ISAC #17 is especially interested in and strongly support the concept of graduation for the transfer from an LDC to a DC status, not only for an entire nation but also for a specific product sector within a nation.

In this report and in all of ISAC 17's reports we stress the importance and necessity of the enabling legislation, deeming such legislation to be of equal significance as the proposed codes. We repeat our desire and our willingness to participate in the formulation of the enabling legislation.

Report of the Industry Sector Advisory Committee on Machine Tools, Other Metalworking Equipment, and Other Nonelectrical Machinery (ISAC 17) to the President, the Congress, and the Special Representative for Trade Negotiations

2.E. Government Procurement

ISAC 17 supports the proposed code provided that: (1) there is implementation by the signatories of the agreed transparency in all aspects of government procurement; and (2) there is real and positive identification by all signatories of significant governmental purchasing agencies.

In this report and in all of the ISAC 17's reports we stress the importance and necessity of the enabling legislation, deeming such legislation to be of equal significance as the proposed codes. The ISAC recommends that a permanent policing mechansim be established by the enabling legislation, possibly under the auspices of STR, to continually monitor international purchasing activities falling subject to the code provisions. Without a rigorous enforcement mechanism to oversee the operation of these codes, a clear international understanding of the terms of the codes, and equitable implementation of the code by signatories, little benefit will accrue. We repeat our desire and our willingness to participate in the formulation of the enabling legislation.

REPORT OF THE INDUSTRY SECTOR ADVISORY COMMITTEE ON MACHINE TOOLS, OTHER METALWORKING EQUIPMENT, AND OTHER NONELECTRICAL MACHINERY (ISAC 17) TO THE PRESIDENT, THE CONGRESS, AND THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

2.F. IMPORT LICENSING

ISAC #17 supports an import licensing code which we understand includes restrictions on all techniques relating to or used in connection with import documentation such as: syper-technical use of typographical or inadvertent errors and other similarly known techniques. We expressly regret that such code might be signed by LDCs which use import licenses to limit or restrict imports is a common practice. The ISAC urges the STR to influence all LDCs to become signatories to this code. ISAC #17 strongly opposes the use of an import license in any manner to obstruct the flow of imports, whether by time of procedures, procrastination in processing paper work, monetary requirements, or otherwise.

In this report and in all the ISAC 17's reports we stress the importance and necessity of the enabling legislation, deeming such legislation to be of equal significance as the proposed codes. Without a rigorous enforcement mechanism to oversee the operation of these codes; a clear international understanding of the terms of codes; and equitable implementation by the code by signatories; little benefit will accrue. We repeat our desire and our willingness to participate in the formulation of the enabling legislation.

REPORT OF THE INDUSTRY SECTOR ADVISORY COMMITTEE ON MACHINE TOOLS, OTHER METALWORKING EQUIPMENT, AND OTHER NONELECTRICAL MACHINERY (ISAC 17) TO THE PRESIDENT, THE CONGRESS, AND THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

2.G. SAFEGUARDS

ISAC #17, in view of the incompleteness of the proposed code, cannot express its approval. We so strongly believe in the desirability of a safeguards code that the ISAC regrets that more concrete progress toward agreement has not been made. We, in principle, support the position of the Government, as we understand that position. However, we are convinced that any code to be acceptable must include the basic concept of selectivity to be applied without regard to the acceptance or absence of acceptance by the exporting country which has been demonstrated to be the source of the harm caused. We repeat our previously expressed opinion that an abbreviated expeditious proceeding should be available to the harmed domestic industry when the source of the harm is transferred to an affiliated manufacturer.

An example: imports of widgets from country J cause a proven injury to a domestic industry; relief is provided by the President at the culmination of the escape clause procedures; the manufacturer in J shifts his production of widgets for export to the U.S. to his affiliated manufacturer in country K continues the harm.

An acceptable code must also include requirements for

complete openness and publication of procedures to be used by and in each signatory for the implementation of the safeguard mechanisms.

REPORT OF THE INDUSTRY SECTOR ADVISORY COMMITTEE
ON MACHINE TOOLS, OTHER METALWORKING EQUIPMENT,
AND OTHER NONELECTRICAL MACHINERY (ISAC 17)
TO THE PRESIDENT, THE CONGRESS, AND THE SPECIAL
REPRESENTATIVE FOR TRADE NEGOTIATIONS

2.H. STANDARDS

ISAC 17 in principle supports the proposed code. We note Ambassador McDonald's statements regarding use by the Government of non-governmental personnel for participation on the panels described in Annex II. The essential concept in the code of minimal use of Standards as trade barriers is our basic reason for supporting the code.

ISAC 17 must again record its deep concern regarding what appears to be a potentially irreconcilable conflict between the proposed code and the implementing legislation as we would envision it on the one hand, and the proposed rule published by the Federal Trade Commission on the other hand.

ISAC 17 believes that the implementing legislation is perhaps even more important to the proposed Standards Code than to the other codes. We emphasize this point because of our beliefs that: (1) formulation of Standards can be effective and non-disruptive to trade only if knowledgeable persons from the private sector are intimately involved in all stages; and, (2) the governmental agency assigned the responsibility for implementing and administering the necessary legislation must not have a regulatory function and/or bias but should be more of the nature of a secretariat.

We repeat our desire and willingness to participate in the formulation of enabling legislation.

Report of the Ind[illegible]ctor Advisory Committee
on Machine Tools, Metalworking Equipment,
and other Nonele[illegible]al Machinery (ISAC 17)
to the President, the Congress, and the Special
Representative for Trade Negotiations

2.I. STEEL

ISAC 17 now understands that the "Steel Agreement" is not actually an agreement for trade purposes, but instead is the organization of an OECD Committee of representatives of the signatory governments. It is further understood that industry representatives will not be permitted to attend Committee meetings (although they may be present as advisors for the technical subcommittee meeting which do not discuss policy). The U.S. Advisory Committee will be made up of a balance of steel industry management, steel ind[illegible] labor, user industry management, user industry labor and possably consumers. These things being true, ISAC 17 has not objection to the formulation of the committee.

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2.J. SUBSIDIES

Subject to the following comments regarding DISC, ISAC 17 approves the proposed Subsidies and Countervailing Duty Code. However, our support is conditioned upon information and statements made by spokesmen of the Administration that adequate provisions will be in the implementing legislation with regard to imports from state controlled economies and industries.

While the wording of the code seems to be clear that DISC would be in violation of the code, we understand that the Administration is proposing the code on the basis of non-acceptance that DISC is violative of the code and that the implementing legislation makes clear that the existence of DISC is not jeopardized by the existence of this proposed code.

ISAC 17 reiterates that its support of the code results in large measure from the allowance for relief for injury sustained in a third country market as well as in the domestic market.

In this report and in all of ISAC 17's reports we stress the importance and necessity of the enabling legislation, deeming such legislation to be of equal significance as the proposed codes. Without a rigorous enforcement mechanism to oversee the operation of these codes; a clear international understanding of the terms of the codes: and equitable implementation by the code by signatories; little benefit will accrue. We repeat our desire and our willingness to participate

in the formulation of the enabling legislation.

Report of the Industry Sector Advisory Committee
on Machine Tools, other Metalworking Equipment,
and other Nonelectrical Machinery (ISAC 17)
to the President, the Congress, and the Special
Representative for Trade Negotiations

TARIFFS

ISAC 17 has not yet had an opportunity to review the tariff schedules from all of the countries involved. From those schedules reviewed, ISAC 17 believes that a relative balance of concessions given and received has been achieved. Please note the strong exception in the addendum (attached) concerning TSUS 668.00. It should also be pointed out that in at least one other classification, TSUS 664.10 covering elevators, hoists, winches, conveyors, etc. and parts NSPF, there was no quid pro quo. The original and current 60% tariff reduction offered by the U.S. is not matched in any case by the foreign offers available for review. The foreign reduction on tariffs ranged from 0% up to 40%. As a result, a large tariff disparity will exist between the new U.S. rate of duty and new foreign rates of duty for this competitive, export-oriented industry.

ISAC 17 is particularly pleased with the agreement with Canada insofar as the modification of "Made In Canada" provisions have been made.

Tariffs

ADDENDUM

An examination of tariff offers indicates that of all the numerous ISAC #17 industries only a very few have been singled out for 100% reduction of the current duty rate. One of these industries is covered by TSUS 668.00, "Machinery for the manufacture of pulp and paper." This is one of the classifications included in data provided by ISAC #17 as "extremely sensitive" to further duty reductions. We do not understand why such an industry should be singled out for 100% reduction of the current low rate of 3 1/2 percent.

The U.S. domestic industry producing pulp and papermaking machinery is suffering at this time from an especially sharp decline in exports and an increase in imports. These trends have erased completely in the space of only three years a $120 million favorable balance of trade and caused a loss of 2,800 jobs in the industry (based on data compiled from U.S. Department of Commerce statistics including 10 months of import and 9 months of export data for 1978).

Import share of the domestic market has risen from 5.5% during 1964-66 to 18.0% in 1978. It seems clear that, if the existing duties are eliminated completely, the share of the U.S. market captured by imports (primarily from Scandinavia) will rise to nearly 40% by the end of the period in which the duty rate reductions are made fully effective.

The negative balance of payments which occurred in 1978 can be expected to increase significantly with the loss of a further 3,000 jobs for U.S. workers.

ISAC #17 respectfully requests reconsideration of the proposed tariff reduction in TSUS 668.00 and 668.06, and, as a minimum, recommends its inclusion in Group F (Formula reduction applicable).

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
ELECTRICAL MACHINERY, POWER BOILERS, NUCLEAR REACTORS,
AND ENGINES AND TURBINES
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #18)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

May 9, 1979

Bernard H. Falk

Bernard H. Falk, Chairman
ISAC #18

SUMMARY

One of the most important U. S. objectives in the entire Tokyo Round of multilateral trade negotiations (MTN) - indicated both by the Trade Act of 1974 and its legislative history - was to gain greater competitive access to developed country markets (mainly Europe) for the ISAC 18 product sector (heavy electrical equipment and related and other products). The ISAC 18 product sector - which domestically is relatively open to foreign competition - is probably the principal large U. S. industry excluded from any chance to compete in Europe by discriminatory government purchasing practices. For that reason, the ISAC 18 ISAR's Executive Summary said very simply that:

> "Equivalent opportunity for access to foreign markets represents the major objective of domestic manufacturers represented on ISAC 18."

It presently appears, as this report is being written, that there definitely will be a total failure to gain <u>any</u> access for heavy electrical equipment to the European Community (EC), and whether any significant access will be gained in other developed country markets appears very questionable.

U. S. negotiators acknowledge this failure is one of the biggest U. S. disappointments in the entire MTN excerise.

In view of this major defeat, the U. S. negotiators are proposing that the implementation legislative countermeasures to create both pressures and incentives for the non-cooperating countries to be more forthcoming in the future. These contemplated countermeasures described below in detail consist of tariff reduction withholdings and non-access by heavy electrical equipment

SUMMARY

made in non-cooperating countries to a specified list of the U. S. agencies that purchase such equipment. The countermeasures contemplated by the Government are approved by ISAC 18 as an obvious necessity, in view of the almost-total defeat being suffered. Such countermeasures are the beginning steps of any program to pressure future progress.

But ISAC 18 judges, based on its experience, that the countermeasures proposed by the Government do not go far enough to create realisticaly effective incentives for future trade liberalization. the long-standing European discriminatory practices are so strong and pervasive that ISAC 18 strongly urges and recommends that these countermeasures be strengthened (as described below).

In addition to the basic issue of competive access, there are serious deficiencies or uncertainties in other aspects of the emerging MTN agreements which, in our judgment, require careful attention and coverage in the implementation legislation.

Reviewing the principal areas of concern:

A. Government Procurement Code

As stated above, the U. S. electrical equipment industry, perhaps more than any other industry, has suffered from restrictive, discriminatory foreign procurement practices. American manufacturers felt that a meaningful Government Procurement Code that included as covered entities those agencies that purchase heavy electrical equipment was an absolute necessity to achieve the objectives of ISAC 18. As we understand the Code that has been developed, it is our understanding that the principal purchasers of heavy elec-

BEST COPY AVAILABLE

SUMMARY

B. Standards Code

While agreeing with the objectives of this Code and with a number of its provisions, particularly with those that provide open access to standardization and certification plans, there are still many shortcomings and, in particular, ISAC 18 still opposes any agreement which would result in mandatory imposition of new standards on the United States or other nations, except in those few instances when a nation has developed a standard as a deliberate and discriminatroy NTB." We understand such mandatory imposition is not intended, but clarification is required as to how the U. S. intends to implement the affirmative duties specified in Sections 2.2, 3.1, and 4.1.

C. Tariffs

1. Heavy Electrical Equipment

In view of the fact that these negotiations did not lead to equivalent competitive access, particularly for heavy electrical equipment, ISAC 18 expresses its deep disappointment over further reductions in U. S. tariffs; in particular, reductions for power transformers (682.07), generators (682.60), and large outdoor switchgear (685.90). ISAC 18 believes there should be no tariff reductions for these items, consistent with the position taken by our negotiators regarding turbines and boilers.

Further, ISAC 18 notes with disappointment that all tariff items, with the exception of "flashlights and parts," have tariff offers either at formula or greater than formula.

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2. Diesel Engines

Tariffs were the principal concern for manufacturers of diesel engines and received the greatest attention in ISAC 18's comments and recommendations related to this product category. Current U. S. diesel engine tariffs in general are lower than those of the EEC and Japan ... the major sources of non-U. S. diesel engine production.

ISAC 18's long range "ideal situation" was considered to be free access to the U. S., EEC, and Japanese markets for all engine manufacturers. As this would require greater tariff reductions by Japan and the EEC, a more realistic goal of formula tariff reduction was recommended as minimum bargaining position.

This objective appears to have been achieved through formula reduction offers from the U. S. and the EEC and Japan. In this respect, tariff goals of diesel engine manufacturers were realized and although some disparity remains, it will be less than in the past.

D. Linkage Proposal for Heavy Electrical Equipment

Specific advice to government representatives, both in our ISAR and in visits to negotiators in Geneva, urged that any tariff concessions for U. S. heavy electrical equipment should be linked to a satisfactory Government Procurement Code that covered heavy electrical equipment. While we understand that certain generation components, such as turbines and boilers, may have tariff concessions withheld, we are most disappointed that switchgear, transformers and generators for use in turbines

SUMMARY

ve not also been withheld as per our recommendation. We repeat that tariff reductions on all these items should be wihheld and, in fact, increased, in view of the failure to get procurement code coverage. We also recommend other countermeasures, as stated below.

E. Sector Negotiating objectives

Secion 104 of the Trade Reform Act addresses the need that "A principal U. S. negotiating objective under Sections 101 and 102 shall be to obtain, to the maximum extent feasible with respect to appropriate product sectors of manufacturing --- competitive opportunities for U. S. exports to developed countries of the world equivalent to the competitive opportunities afforded in United States markets to the importation of like or similar products, taking into account all barriers including tariffs to, and other distortions of internatjonal trade affecting that sector." Further, the Congress, in the legislative history on the Trade Act (see, for example, the Senate Finance Committee, in its Committee report on this issue), specified the electrical equipment industry as a particular area in which the sector negotiating objective should be diligently pursued. As indicated above, insofar as ISAC 18 is concerned, the MTN utterly fails to comply with Section 104.

SUMMARY

While expressing our disappointment with the results of the MTN as it concerns ISAC 18, we would be remiss if we did not point out the cooperation and open communication channels between STR, DOC, and other government agencies who worked so cooperatively with the private sector through these difficult years. We believe that one of the wisest decisions made by the Congress was the requirement, particularly under Section 135, for advice from the private sector and, in spite of our misgivings about the results, we wish to compliment this Administration and past Administrations for their implementation of this requirement.

2.A. Aircraft

The Committee has considered the issue of Aircraft and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the Committee prepares its final report under Section 135(e)(1).

2.B. Counterfeiting

The Committee has considered the issue of Commercial Counterfeiting and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the Committee prepares its final report under Section 135(e)(1).

2.C. Customs Valuation

The Committee has considered the issue of Customs Valuation and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the Committee prepares its final report under Section 135(e)(1).

2.D. GATT Framework

The Committee has considered the issue of GATT Framework and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the Committee prepares its final report under Section 135(e)(1).

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2.E. NTM Code on Government Procurement

A. Background

The major interest in the proposed Government Procurement Code on the part of ISAC 18 emanated from the desires of American manufacturers of equipment (for large power plant installations, large fossil fuel fired steam generators, and nuclear reactor and steam supply systems) to eliminate discriminatory one-way international trade in that equipment.

For decades it has been the consistent practice of industrialized countries in Europe and of Japan, by various policies or devices, to effectively prohibit the importation of large electric power plant equipment into their respective national markets. On the other hand, a number of these countries with full capability to manufacture such products have taken advantage of the liberal policies of the United States. These foreign sales to U.S. utilities are often at prices much lower than prices in the manufacturer's home market. The only U.S. government restrictions on selling this equipment to United States purchasers have been import duties and, with respect to federal agencies, the Buy-American Act. These are minimal, well-publicized requirements under which agencies of the United States Government have purchased many millions of dollars' worth of large electric power plant equipment from foreign suppliers since World War II. Conversely, with rare exceptions utility entities in European countries and Japan have not purchased American-made

2.E. NTM Code on Government Procurement

large electric power plant equipment. The few exceptions have usually involved purchasing a prototype machine with license to produce similar machines thereafter in the country of purchase.

A number of European and other countries have nationalized, government owned electric utility systems. Shortly after the Kennedy Round, which did not curtail non-tariff import restrictions, a suggestion was made by U.S. Government officials that an international government procurement code be negotiated in an effort to eliminate non-tariff restrictions on the purchase of large electrical and other equipment.

It is apparent, now that the Code is nearly completed, that the utility entities of the governments the U.S. hoped would be subject to the Code, will not accept it. To the extent that such entities are not subject to this Code, the Code will have no significance in eliminating major discriminatory practices in the sale of large electric power plant equipment in international trade.

B. The Proposed Agreement

Note: The U.S. Government proposal with respect to a code on government procurement consists of five parts: (1) the code itself; (2) the governmental entities that the signatory countries will subject to the code; (3) U.S. laws that will have to be changed because inconsistent with the code; (4) proposals re how the U.S. will implement the code; and (5) U.S. countermeasure proposals to create incentives for broader foreign government participation in the future.

2.E. NTM Code on Government Procurement

1. Coverage; government entities to be made subject to the code

   Note: We understand this area is still under active negotiations

   - The European Community (EC) is excluding:
     - utilities (purchasers of heavy electrical equipment)
     - telecommunications
     - transportation
     - some types of computers
   - Sweden and Japan are currently including utilities but may withdraw in view of EC omission. Japan is currently excluding telecommunications
   - Canada and Switzerland will apparently include their utilities
   - Australia will apparently not agree to the code

2. Implementation

   Special Trade Representative (STR) officials stress that the value of the government procurement code and the other MTN agreements will depend on how effectively the U.S. Government is structured and enabled to administer, monitor, and enforce the various agreements. However, STR officials also represent they are only beginning to develop implementation proposals and have not as yet indicated the nature of such proposals.

3. Countermeasures

   In recognition of the failure to get EC inclusion of utilites, transportation, and telecommunciations, and to create pressure and incentives for inclusion of these sectors in the future, STR is proposing a set of retaliatory counter-measures. RE ISAC 18:

2.E. NTM Code on Government Procurement

a. Tariff reductions on turbines and boilers will be withheld.

But tariff reductions on generators, power transformers, and switchgear would go through.

b. Specified U.S. agencies that purchase heavy electrical equipment would be impeded or prohibited from buying such equipment made in the non-cooperating countries.

The list of such U.S. agencies currently under consideration is in Appendix 1.

Note: STR has no definite proposal as to what the degree of exclusion of these U.S. agencies is to be; i.e., whether simply to increase the Buy American differentials, whether to prohibit any purchases of such products made in such countries, or whether to practice some other countermeasure.

A two-tier approach may evolve involving the use of bilateral agreeements: no exclusions for countries that put all of their agencies under the code, plus exclusions as countermeasures for countries that do not cooperate fully.

2.E. NTM Code on Government Procurement

C. Evaluation of Code and Recommendations by ISAC 18

1. The coverage of the code, as STR itself recognizes, is very disappointing. This is probably the biggest single disappointment of the MTN. The Congressional focus in the implentation area, therefore, must be

   . To make sure foreign competitors do not get better access to U.S. markets

   . to impose countermeasures, so far as the U.S. market is concerned, on suppliers from non-cooperating countries, to put pressure on them to cooperate in the future.

2. The countermeasures should be strengthened.

   . Instead of any lesser measure, the U.S. agencies listed in Appendix 1 should be prohibited, in the implementation legislation, from purchasing the equipment in question made in non-cooperating countries until they place the pertinent purchasing entities under the code. Rules of origin will have to be designed and administered to prevent evasion. For example, equipment sold by a supplier in a signatory country whose government utilities are covered by the procurement code should not be allowed to be sold to a U.S. agency if significant elements or components in such equipment were designed and/or manufactured in non-cooperating country or countries.

2.E. NTM Code on Government Procurement

- In addition, Congress should prohibit the use of federal funds in connection with any purchases by non-federal agencies or privately-owned entities of such equipment made in non-cooperating countries. For example, REA funds used by cooperative to purchase heavy electrical equipment.
- As to tariffs:
  - Reductions should be withheld on generators, power transformers, and power circuit breakers, as well as on all turbines, generator, and boilers.
  - Tariffs on these items should in fact be increased, to the extent feasible (perhaps to the non-MFN rates). Keep in mind that, whereas the foreign markets in question involve largely-owned purchasers or purchaser who, though ostensibly non-government-owned are in fact largely under government influence, about 85% of the U. S. heavy electrical market is privately owned and is therefore not affected by the procurement code.

3. The implementation legislation should provide for vigorous, integrated high-level U. S. administration of the procurement code - and the other codes - to enable the U. S. effectively to monitor and enforce the rights of U. S. exporters.

2.E. NTM Code on Government Procurement

The proposal being discussed to create a special category between 50,000 SDRs and $150,000 SDR's is not definite enough to be evaluated.

- The transparency provisions, as regards the losing bidder's finding out why he lost, are questionable.

- The disputes settlement procedures (especially as regards sanctions) will be of value only if the U.S. government is structured and willing to use it.

4. The implementation legislation should provide for vigorous, integrated high-level U.S. administration of the procurement code - and the other codes - to enable the U.S. effectively to monitor and enforce the rights of U.S. exporters.

Appendix I

2.E. NTM Code on Government Procurement

U.S. agencies proposed by the Government to be partially or wholly barred from purchasing heavy electrical equipment made in countries that do not include government entity purchasers of such equipment in the government procurement code

Note: List is still being discussed within STR.

TVA
Dept. of Defense - Army Corps of Engineers
Dept. of Interior - Bureau of Reclamation
Dept. of Energy - Bonneville and other Power Administrations
Dept. of Transportation - FAA
NASA

2.F. NTM Code on Import Licensing

The Licensing Code only addresses itself to the administrative problems, largely in LDC's, inthe application and processing of an import license. However, the Code does not address itself to the apparent prohibition on granting import licenses to exporters whose products are domestically produced by a national "infant" industry that the less developed country wishes to protect.

The provisions of this Code will help an importer to utilize a license if they are able to obtain one.

There has been a recent trend by such countries, notably Mexico, to eliminate the requirement of an import license for importation of certain goods. However, they have utilized an increase of the import duties on these same goods to such an exorbitant rate that the importation is economically unfeasible. As an example, Mexico has eliminated the import license requirement on fluorescent tubes, effective January 1, 1979. However, they simultaneously increased the duty on that product by indicating the official price as 200 pesos ($8.80) per gross kilo on which a duty of 50% is applicable. This would make the import duty on a 40 watt flourescent tube at $1.56. A 40 watt tube, locally manufactured, is presently sold in Mexico for less than $1.00.

2.G. Safeguards

The Committee has considered the issue of Safeguards and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the Committee prepares its final report under Section 135(e)(1).

2.H. NTM Code on Technical Barriers to Trade (Standards)

ISAC 18 has carefully and fully considered the Code on Technical Barriers to Trade, recognizing the negotiating problems involved in seeking MTN agreement on measures intended to eliminate such barriers. The Code contains recognition that adherents may be constrained by national requirements for protection of health, safety and environment, so that there may be cases in which they may invoke the privilege of non-compliance for those reasons.

The Code contains a requirement for national and regional certification systems to grant access to those systems to foreign or non-member suppliers on a most favored basis, which represents a major advance in eliminating a most troublesome barrier.

There are certain Code provisions which would be unduly burdensome to U.S. manufacturers, particularly those which bear upon the adoption of international standards. The ISAC 18 ISAR contained the following language, "In no event, however, would ISAC 18 support proposed agreements which would result in mandatory imposition of new standards on the U.S. or other nations, except in those few instances when a nation has developed a standard as a deliberate and discriminatory NTB. Possible harmonization of a code of purchasing conduct should not result in harmonization of standards."

2.11. NTM Code on Technical Barriers to Trade (Standards)

It is true Sections 2.2, 3.1 and 4.1 do not mandate the use of international standards in those cases where the standards are inappropriate for a list of reasons including national security, safety & fundamental technical problems Nevertheless these Sections do contain language appearing to contain a manadate for use of such standards by signatories.

As an example, the use of international standards for electrical products by and within the U.S. is generally impractical:

a. Such standards largely describe E.C. products made to conform to E.C. installation requirements, voltages, Hertz frequencies and customary practices which differ in each case from those in the U.S.

b. There is not world-wide use on a multi-national basis of such standards.

c. U.S. membership in international standards bodies and acquiescence with existing standards over the years usually reflected a measure of disinterest by U.S. representatives because the "standards do not apply here."

The deficiencies in the requirement that international standards be used by the U.S. are sufficient so that it is important that implementing legislation fully recognize the rights of the U.S. as a signatory to not use international standards for the reasons listed for such non-compliance in Section 2.2.

2.H. NTM Code on Technical Barriers to Trade (Standards)

Section 1.3 of the Code contains relief or exception from compliance with the Code for purchasing specifications prepared by governmental bodies for the production or consumption requirements of governmental bodies. In many cases governmental bodies represent a dominant influence upon the internal economy of a country because of the large size of governmental consumption as a part of the total economy. This exception could be the basis for technical specifications which may be more broadly an obstacle to international trade than appears to have been intended by the Code.

Section 12.3 provides for special and differential treatment of LDC's in a manner which seems to support waiving requirements in standards to which other parties would be expected to conform. While the special problems which the LDC's have in improving their economies is recognized, it appears that waiving standards requirements is an extreme and undesirable approach, if that is the intent of this section.

Sections 14.9 thru 14.13 establish an approach to dispute settlement involving the use of a technical expert group to take certain actions including, if appropriate, making findings concerning the detailed scientific judgments involved. This approach to dispute settlements has been rejected when proposed by the American National Standards Institute as a step in resolving disputes on domestic standards matters, and the rejection was broadly based. The custom in the U.S. is almost completely that of resolving disputes by examining the procedural correctness of standards rejection or adoption.

2.11. NTM Code on Technical Barriers to Trade (Standards)

The major problem of almost overwhelming proportion is how the experts would be selected in any particular instance, bearing in mind the broad differences of scientific opinion or theory in many technical areas.

2.I. Steel

The Committee has considered the issue of an International Steel Agreement and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the Committee prepares its final report under Section 135(c)(1).

2.J. NTM Code on Subsidies and Countervailing Duties

A. DISC

The draft subsidies code raises a very serious question as to its effect on DISC. In response to voiced industry concern, government officials were originally understood to have represented:

- The Europeans and other countries understand and accept the fact that the status of DISC under the GATT will be undecided after the Tokyo Round is concluded ("they understand we have a problem"); i.e., other countries understand that DISC is to be "in limbo" and tacitly agree they will not seek to invoke the new subsidies code against DISC. However, those countries do not want to put this understanding in writing. Obviously, if an attack were made against DISC under the current provisions of the Subsidies Code, it would be difficult indeed for the U.S. to defend DISC.

- There is no intent on the part of the U.S. government that Congressional approval of the subsidies code will result in an implicit repeal of DISC.

- The Administration's implementation package will expressly and clearly confirm both the foregoing MTN understanding and the U.S. governmental intent.

There is now confusion as to what the status of DISC will be under the Subsidies Code so far as other countries are concerned. And, even more disturbingly, there is now even uncertainty as to how clearly the government will indicate in the implementation package that Congressional approval of the Subsidies Code will not implicitly repeal DISC. The footnotes in Annex A of the Code which are intended to protect DISC are seriously inadequate and, in fact, are damaging.

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2.J. NTM Code on Subsidies and Countervailing Duties

Both the GATT and the Congressional aspects should be clarified as the government originally apparently indicated. It is especially necessary that Congressional consideration and approval of the Subsidies Code be on the basis of a clear indication -- either in the legislation itself or in the legislative history -- that Congress is not intending to repeal DISC.

It should be kept in mind that the position advocated above does not involve or affect domestic issues about DISC. The objective is simply to make certain that -- unless and until there is a mutual agreement among the signatory governments as to the GATT status of DISC -- its status will be solely for the U.S. to decide.

B. Border Tax Adjustments

The Europeans totally "stone-walled" when the U.S. sought to discuss the trade-distorting effects of border tax adjustments. The subject was not even seriously discussed. Therefore, consideration and approval by Congress of the Subsidies Code should preserve the U.S. position that foreign-country practices re border tax adjustments are trade distorting so that, as directed by Congress in Sec. 121(a)(5) of the Trade Act of 1974, the U.S. position be maintained that there should be a redress of the disadvantage to the U.S. because it relies primarily on direct rather than indirect taxes for its revenue needs.

2.J. NTM Code on Subsidies and Countervailing Duties

In view of what has happened, the U.S. should press for the international tax conference contemplated by some of the provisions in Annex A, attached to the Code, at which a further attempt could be made for the redress of competitive advantages which the Congress directed the President to seek, as stated above.

C. Proof of Injury

Consideration of whether there has been a significant increase in subsidized imports and whether there has been a significant price undercutting by subsidized imports as compared with the price of a like product of the importing country would effectively deny either countervailing duty or anti-dumping action with respect to subsidized or dumped imports of some items of large electrical equipment. In some years only a few units of such equipment are purchased by U.S. utilities, and the prices of units purchased are not available to U.S. suppliers (in case of large steam turbine generators, U.S. suppliers are prohibited by consent order from knowing competitors' prices on any particular contract). Accordingly, under countervail or dumping action injury to large electrical equipment manufacturing industry must be determined on a more realistic basis. This is especially important for an industry which has experienced proven, repetitious, dumping and subsidized sales from abroad over long period of time.

Footnote 3 under Section F defining "like product," would make

2.J. NTM Code on Subsidies and Countervailing Duties

it difficult if not impossible to qualify imports of large electrical equipment for protection vs. subsidized or dumped imports. For example, each manufacturer has different designs and configurations, and different transformers perform different specific functions. Yet all are nonetheless "large power transformers."

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE
CONSUMER ELECTRONIC PRODUCTS AND HOUSEHOLD APPLIANCES
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #19)

MULTILATERAL TRADE NEGOTIATIONS ISSUES

May 24, 1979

Peter R. Levin
Chairman, ISAC 19

1. OVERALL

Although the bargaining efforts of the United States in the Multilateral Trade Negotiations (MTN) are in the main completed, the continued existence of several unresolved issues in that forum causes this review and appraisal of the results to be less definitive than our Industry Sector Advisory Committee (ISAC) would have preferred at this stage of reporting to the Congress. One Code of major significance to some industries within the ISAC's scope — that covering safeguard actions — remains in dispute.[1] Moreover, we have yet to be apprised of the tariff concessions and Code adherence of those developing countries which afford potential and substantial export markets for our products.

Nevertheless, in the final pages of this section we provide a general assessment of the trade agreements. More specific assessments are furnished in following sections which consider each agreement individually. These evaluations, however, cannot be meaningful if offered in vacuo. Rather, they achieve an essential pertinence only when the agreements are examined contextually in the relationship of our industries to the current international trading climate, to on-going U. S. trade policy, and to proposals of domestic implementation measures.

In particular, because the agreements make for new and potentially

1) The unsettled Code on Counterfeiting has lesser relevance to our industries. Because both these instruments might, however, be laid before the Congress at a subsequent date, at the later sections of this report appropriate to discussion of trademark counterfeiting and safeguards we provide some preliminary views.

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sweeping changes in key pillars of the international trading structure, the rapid adaptation of the United States to what is new and what will be changing is critical to the survival and progress of our industries. From the observation of experience, this ISAC's members have every reason to believe that our forei competitors and their governments will not be slow to put in force their own adaptations — simultaneously, wherever possible, to protect domestic markets while expanding exports. No doubt, in some instances, these new measures and new practices will test the effectiveness of the agreements. But, more importa the agreements themselves and how this country puts them to legitimate use is a test of mettle of the United States and its Federal government in anticipating and facing up to a trading world that — sooner rather than later — will be a com of increased international competitiveness and opportunities for economic expansion.

The vital element to serving the American national interest, effectively and legitimately, is therefore a series of vigorous governmental implementation measures and programs which will be fully in place when each of the various agreements comes into force. Half-measures — those that merely alter U. S. domestic legislation and regulation in order to bring our laws and procedures into easy conformity with the agreements — will, we are convinced, leave this country and its industries in an even more vulnerable position than exists today. For, with the reduction of trade barriers, we expect to see an intensified competition in our domestic and export markets ranging from the very fair to the actionably unfair. Some of this competition will, as it is today, be marked by

1. OVERALL

supportive intervention and assistance by foreign governments in behalf of their competitor firms, again in activities that range from the permissible to the egregious.

- In such a trading world, anything less than full U. S. domestic implementing measures and programs — all in themselves consonant with the trade agreements and aggressively administered — will consign the United States to permanent disadvantage in its international trade. In that sense, ISAC 19 welcomes the trade agreements as an opportunity under which the Federal government can take rapid corrective and new steps in U. S. trade policy and practice that are long overdue.

Scope of the ISAC. As defined by its charter and subsequent revisions, the coverage of ISAC 19 includes literally hundreds of discrete products, their components and parts. Their models and technical ratings run to tens of thousands. All are generally regarded as consumer durables, excepting perhaps phonograph records and prerecorded or blank audio/video tapes. In consumer markets, this product scope covers a range from "big-ticket" items to "impulse" goods. These utilize and are manufactured by a multiplicity of technologies. Some have been marketed for more than a century; others, new and highly innovative, are not yet in general distribution; most, in varying degree, are to be found in world-wide demand. In brief, these products include:

- Major appliances — electrical, gas and manual — for household use, such as refrigerators, ranges and other cooking devices, home laundry

OVERALL

equipment, dishwashers, microwave ovens, air conditioners, sewing machines, stoves, soil heaters and the like.

- Small appliances or housewares, usually electrical, such as grinders, food processors, coffee-makers, toasters, irons, specialty cookers, vacuum cleaners, floor polishers, electric brooms, humidifiers and dehumidifiers, powered hand-tools, and more.
- Consumer electronic products, including among others, television sets, home and auto radios, phonographs, audio systems and components, separate devices such as loudspeakers and microphones, audio and video tape players and recorders, video disc players, and others.
- Prerecorded audio records and tapes, blank tapes, and video discs.

Key Competitive Factors. Despite the enormous variety in this ISAC's product scope, international success and most certainly survival in the U. S. and other domestic markets are generally associated with three principal competitive factors:

1. Large-scale production of goods that are both dependable and of a recognized level of quality, coupled to effective channels of distribution which bring such merchandise to the consumer in quantity and consistent availability.
2. Numerous elements of cost competitiveness which, in relatively free markets, are tested by the price-competitive consciousness of consumers.
3. Product differentiation through the continuing incorporation of and addition of new features, both tangible and intangible.

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Complementing these factors are, of course, such vital considerations as the relative financial health of the firm, capability to carry out research and product development, warranty and product service requirements as may be appropriate, conformity to standards, and the panoply of relationships between industry and national governments.

- Today, under the effective influence of these factors:[2] (a) a number of ISAC 19 products have substantial and growing export markets; (b) some have in our judgment an untapped export potential, inhibited partly by barriers addressed in the trade agreements and partly by the insufficiency of U. S. export assistance programs; (c) others are highly sensitive to major foreign competition in the U. S. domestic market; (d) still others have minor export opportunity with negligible competition from overseas.

2) In consideration of the actual size and existing international markets for ISAC 19 products, the Committee believes that Federal statistics on industry exports within our product scope are unreliable and, indeed, probably in disarray. As examples: (i) we are unable to correlate known unit quantity shipments of such diverse items as air conditioners and phonograph records to reported aggregate values of shipments; (ii) we cannot identify the substantial quantities of exported parts and components that constitute significant production for the factories of electrical appliance producers; and (iii) in country-by-country lists that presume to analyze tariff concessions, products wholly outside the ISAC's scope are included and products within our scope are omitted — thereby contributing significantly but erroneously to statistical evaluations that are worthless.

1. OVERALL

A Brief Historical Overview. With the end of World War II and well into the 1950's, discouragement of exports on the part of our domestic consumer goods industries was in Government viewed as a positive element to the economi and political recovery of Western Europe and Japan.[3] The direct obverse of this policy was the encouragement of capital goods and other products deemed essential to economic recovery. The need for such a policy at that time is perhaps still unquestionable: such was this country's competitive position that massive but unselective exports would most certainly have bankrupted the world, probably including the United States.

Not nearly so necessary to the achievement of this finite objective was the tolerance by the United States of the erection of an intricate series of permanent barriers against our industries' imports as fixtures of the post-war trading world. Some of the barriers were simply refurbished from the trade wars of the thirties. Others, more sophisticated and reflective of the significan enhanced economic power of central governments, were and are testimony to man's inventiveness when faced with challenge, opportunity, and an absence of deterrence.

Tolerance, coupled to somnolence, in the main kept effective U. S. participation at arm's length and ocean's breadth from the development of foreign national, regional and meaningfully international product standards

3) This disincentive to export as a matter of policy of course was felt by other industries, notably in the production of "short-cycle" industrial intermediates and components.

1. OVERALL

and their utilization. Somnolence, abetted by an uncritical tolerance, left us inattentive as competing industrial nations — their recoveries complete and burgeoning — laid down networks of trade-distorting domestic and export subsidies which in the absence of bilateral and multilateral discipline achieved their desired results: (i) pre-emption of foreign markets, (ii) subsidized product innovation, and (iii) penetration of the U. S. domestic market.

By the sixties, in a much changed world the basic assumptions underlying U. S. trade policy and its administration and implementation remained essentially unchanged. Although the reasons for the basic tilt which favored U. S. exports of capital goods over consumer products had disappeared, the tilt remained — and does so today. Export assistance programs in this country remained static or withered, even as competing nations improved their own. The introduction of the DISC in the early seventies — whose benefits were subsequently scaled down in mid-decade — provided a potentially powerful working tool for exportation. But its beneficial effects can be realized only after years of accumulating taxable but deferred funds and applying them to product development and export marketing. In any event, the value of a DISC to a manufacturer is directly related to his export volumes and profitability.

Today, the DISC stands as the only meaningful export aid for consumer durables manufacturers. No other U. S. programs of substance are in existence But, from the viewpoint of most U. S. consumer electronics manufacturers, mo beleaguered by imports than encouraged by export opportunity, DISC's potential usefulness lies in the future. Their profitability having been squeezed over

many years, they have been unable to generate the internal financial resources that are essential to adapting products to foreign demand and to investing in export market development. In the present, the assistance they receive from the administration of American trade policy is summed up in the Orderly Marketing Agreement (OMA) with Japan on color television sets.

Prior to the OMA, however, it could be argued that the administration of U.S. trade policy regarding consumer durables had shifted from cumulative indifference to flagrant malperformance. The failure of the United States to arrest the dumping of Japanese TV sets, despite the continued existence of an affirmative finding since 1971, leads some to such a conclusion.[4]

4) A host of ironics surrounds this case: Initiated in 1969 when the Japanese were accused of dumping both monochrome and color TV sets, in 1971 the U.S. Treasury found a preliminary determination of dumping and the U.S. Tariff Commission found injury to the domestic industry as a result of such dumping. Meanwhile, between the date of complaint and the dates of finding, certain technical aspects of the operation of TV sets had undergone product improvement and design (but not necessarily cost) changes: in 1969 the internal circuitry of most TV sets essentially employed discrete compo – that is, interconnected receiving tubes and individual passive components such as capacitors and resistors; but by 1971 many or most models increasingly utilized solid state (i.e., transistor and other) devices while also incorporating passive functions. The technical revolution was substantial, even if the end-product performed for identical usage. Initially, after 1971 Treasury collected duties only on tube-type models that were identifiable from the 1969 complaint and Treasury's subsequent investigation; solid-stat models were in essence ignored and continued to enter this country from Japan in increasing numbers, even though the eventual possibility of anti-dumping duty liquidation requirements remained unabated. Until 1977/78,

1. OVERALL

ISAC 19's conclusion on the meaning of this sweep of U. S. policy and trade history, as our industries have been thus affected, is somewhat different: we recognize the need and desirability for multilateral agreements which provid the foundation and means of maintaining an international discipline in a world of expanding and liberalizing trade. Even more important is the establishment of a strong U. S. trade policy with attendant practices and procedures that are binding upon our own government and agressively administered.

The Sectoral Negotiating Objective. The emphatic need for large-scale production operations in support of mass markets, the keen role of competitive pricing, the imperative of product differentiation and changing designs, the variations in the worldwide competitive standing for our differing products, and the deficiencies in our own trade policies, programs and administration — all these led ISAC 19 in 1975 to advise the U. S. negotiators to seek for our industries a balanced package of concessions gained and concessions given. This we did in citation of Section 104 of the Trade Act, the sectoral negotiating

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4) continued —
Treasury did nothing — even as some U. S. manufacturers closed their doors, others merged, and some sold out to foreign ownership. Then, having failed to establish a dumping margin on solid-state sets by type of imported model, Treasury attempted to collect retroactively all unliquidate duties by means of an innovative method of appraisement which would base valuation upon the Japanese commodity taxes which were levied on sets sold in Japan's home market. At this writing, the duties remain mostly uncolle and the validity of the Treasury's method is under challenge in the courts; b the millions of dumped Japanese TV sets entering the United States since 19 constricted the domestic market in price, quantities and profitability so that the domestic industry incurred a prolonged — and probably unnecessary acute shrinkage of operating firms even though unit cost efficiency increase among the survivors.

objective established by the Congress. Our intentions were directed toward exp rather than protection; our perspectives were shaped by a consciousness of how the formulation, evaluation and administration of U. S. international trade policy had affected our industries in the years since World War II ended.

In the perspective of the historical overview, above, the negotiated agreements on both tariffs and non-tariff measures have more rather than less approached this ISAC's sectoral bargaining objectives. Our largest concerns ha been in the areas of subsidization, dumping, standards and tariffs. Indeed, the content of the several codes comes close to equalling our fonder hopes while exceeding our expectations. If, at the MTN, sector negotiating for our industri

4) continued

To those ironies should be added others. Failure to control Japanese dumping in the U. S., which thereby contributed to the very thin profitability which has persistently plagued the U. S. domestic industry, substantially reduced U. S. abilities to maintain a requisite level of research and development as well as investment. As a result, such funds as could be expended were directed to the limited areas of improving existing product a manufacturing methods. But research and development in such newer produ areas as off-the-air video tape recording in the home and video disc players could not be maintained at a satisfactory level — with the inevitable consequences: these have been developed in other countries, are in the main imported, but the United States market demand is what makes them economically feasible to production by manufacturers anywhere. Meanwhile lacking sufficient price margins, efficient U. S. TV manufacturers have been unable to generate investment funds in sufficient quantities that are necessary to underwriting an export effort to those foreign markets which utilize U. S. technical standards for color television and are thus amenable American product designs. Such being the case in "easier" export opportunities, the once very real opportunities — as in Europe — which would have required investment in set design adaptations to differing technical standards as well as market development became impossible to consider, let alone prosecute.

The supreme irony, however, lies not with the Treasury but with the failure of the United States to adapt its procedures — though it might not have been able to adhere totally — to the GATT Antidumping Code that

proved technically impracticable as a bargaining method, the results have nevertheless turned out most satisfactory.

IMPLEMENTATION NECESSITIES

But, in themselves, the codes are only a substructure upon which the evolution of a contemporaneous U. S. trade policy and its effective administratio might be built. This country's weak and minimal policies, desultory and fragmented administration, however, do not constitute the type of edifice that belong on such a substructure. At the very least they waste its promise and destroy its potential. More likely, because the clear presumption of the agreements is substantially expanded international trade and more vigorous discipline in how such trade is conducted, adherence by the United States to its traditional governance of its worldwide commerce will lead only to acceleration of those economic evils which made the MTN so necessary to this country: an ever-decreasing share of the world's markets for domestic U. S. enterprise and ever-mounting deficits in our trade and payments balances. Given the competit sensitivity of many products within this ISAC's scope, we are especially fearful the coming years if the hallmarks of U. S. trade policy and administration rema

4) continued
emerged from the Kennedy Round in 1967. There, by the terms of Article 10(d) the Customs would on an affirmative finding have been required to begin collection of antidumping duties within three months (or, at most, six months) after a preliminary determination. Instead, today, after eight years and throughout the entire intervening period, the duties remain unliquidated.

inadequacy, insufficiency and insipidity.

Thus, ISAC 19 believes the following generic elements of implementation are necessary to the recovery of a healthy international trade position by the United States:

- That the present fragmentation in trade policy administration and responsibility be replaced by a strong, compact and forceful central agency. Toward this end, we endorse the provisions of S. 377 and S.891 as introduced in the current Congress.
- That aggressive representation and administration of U. S. trade interc under the codes become the new and recognized hallmark of our implementation, domestically and internationally.
- That, parallelling the legislative conformance of our statutory institutions to our code obligations, an aggressive series of export assistance and development programs be initiated forthwith. These should include added and substantial funding of export credits for industrial products other than capital goods; provisions making possibl the operation of trading companies (including banking and transportatio services) with significantly reduced risk of antitrust prosecution; provision of exporter loans for market development; and removal of the more egregious export disincentives involving taxation, documentation, licensing and prohibitions that today discourage U. S. trade expansion without compensating national benefits.
- That U. S. trade benefits be conferred conditionally rather than nondiscriminately so as substantially to reward code signatories and

fully reciprocating nations.

- That the best elements of the present government-industry consultative mechanism be preserved and improved, especially in regard to direct and continuing interchange with all policy-making elements — Executive and Congressional — in the Federal structure.
- That voluntary and mandatory standardization activities and product certification be recognized as vital aspects of U.S. trade and, thus, may require appropriate governmental support.

2. A. AIRCRAFT

Comprehended within the Agreement on Trade in Civil Aircraft is a large number of products with this ISAC's scope. Normally, in aeronautical applications, these products are of superficially different design but their operating components are similar or identical to those in domestic use. As we understand it, however, when incorporated in an airplane the products maint a discrete aircraft component identity by virtue of the assignment of a specific part number. Thus, under the Agreement, such identified products would be traded duty-free between signatories.

ISAC 19 endorses such treatment on these goods for the purposes of the Agreement. In U. S. implementation, we strongly recommend that new and separate rate lines be created in the Tariff Schedules of the United States that recognize the duty-free entry of such unincorporated products destined for aircraft application. Administratively, the Customs Service should be advised that such goods must carry a part number and, as a general rule, should be consigned to aircraft manufacturers, airlines or aircraft repair and general aviation services.

2. B. COUNTERFEITING

The industries represented by ISAC 19 have not, in the past, been significantly confronted with international trade in counterfeit merchandise. Nevertheless, we recognize that the possibility exists in the future. Technical developments of consumer durables within the ISAC scope have rendered them susceptible to piracy, and thus our goods are potentially candidates for counterfeiting. Therefore, the code is of interest in the proposed form and might provide significant and desirable protection.

It is recognized that the code provides protection for trademarks and trade names but does not, in its present form, protect design copyrights or patents. While piracy of design is of concern to the membership of ISAC 19, its omission from the code is not an inherent weakness. Patents and copyrighted designs are protected throughout GATT signatory countries by national laws; in some degree, other channels are accessible to manufacturers and/or importers of legitimate goods to secure recognition of proprietorship and exclusion or control through licensing of such spurious or pirated merchandise.

Legislation will be needed to implement the code at U. S. ports of entry. ISAC 19 supports the principle of detention of counterfeit merchandise by custom authorities upon appropriate complaint by the owner of the trademark and provision for appeal by the importer. These and subsequent steps allowing seizure and forfeit of counterfeit merchandise were detailed in the United States proposal of September 22, 1978 but have not, as yet, gained MTN acceptance. Nevertheless, the ISAC supports legislative action consistent with the lines

of the U. S. proposals to the MTN. Such legislative formulation is necessary and appropriate for U. S. implementation of the proposed code even if not further defined by the Code itself.

With respect to the proposal to achieve ultimate disposal of counterfeit merchandise by public auction following removal or obliteration of the trademark identification, there remain the potential for damage to the trademark owner. Such procedure does not extirpate design piracy and therefore what was originally counterfeit merchandise may nevertheless retain competitive value; some prospect of confusion or competition with the genuine product remains. The ISAC therefore recommends that supporting legislation should not allow proven counterfeit merchandise to enter normal distribution channels. Such U. S. supporting legislation will, in the opinion of the ISAC, assist in the ultimate development of a stronger international code.

2. C. CUSTOMS VALUATION

To the extent determinable by the membership of ISAC 19, Customs Valuation matters in overseas countries related to U. S. exports have not presented significant barriers to trade within the industries represented by the committee. Conversely, however, delays in U. S. Customs valuation have had major impact on imports of consumer electronics. We conclude from this experience that past U. S. Customs valuation practices, though complex, were not effective in determining unrealistic import pricing of consumer electronic products prior to the occurrence of damage to, and in some instances the virtual annihilation of, U. S. manufacturing. The presently controversial withholding of appraisal did nothing to repair earlier damage and failed to arrest a declining position.

In the opinion of the ISAC, evaluation practices should be predictable, timely and not widely divergent in monetary effect through selection of alternative procedures. The proposed code corrects inadequacies and inconsistencies in U. S. evaluation and presents a sound working base if applied in the same fashion by our overseas trading partners relative to U. S. exports. The selection of valuation by a defined hierarchical approach is fully acceptable, having the attribute of being predictable. The transaction value is clearly the least contestable and as the first preference in the hierarchical sequence, is considered appropriate.

In determining value under the first preference method viz: the transaction value, the code now defines "assists" which may be added to the invoice value to determine the dutiable value. These assists include engineering,

development, art work, design work and plans and sketches undertaken elsewhe than in the country of importation. The ISAC considers this to reflect a potentia for increase in what has heretofore been determined as the dutiable value. It does not however feel that such assists are unreasonable and is prepared to support the complete package despite this change. As previously applied by the U. S. Customs in conjunction with TSUS Item 807.00, this valuation of assist has been rigorously enforced upon imports to the account of U. S. manufacturers: similar imports embodying similar assists when entered to the account of non-manufacturing importers, however, have not we believe received an equally rigorous scrutiny.

The code as proposed is thus fully acceptable to ISAC 19 and we recomm the supportive legislation which is appropriate to it. The Committee, as in its consideration of the subsidies code, feels strongly that the passage of new legisl tion should not be allowed to influence the disposition of earlier cases which are still unresolved.

2. D. FRAMEWORK

ISAC 19 recognizes the proposed revisions to the GATT to be necessary in their coverage of subject matter and acceptable in their content. It is our hope that Point 2A, Safeguard Action for Development Purposes, through evolutionary practice and subsequent negotiations will provide a framework whereby LDCs – or, at least, their maturing industries – can be brought to graduation and their permissible restraints to trade eventually eliminated on a scheduled basis. In respect to Point 3, concerning the management of disputes under GATT Articles XXII and XXIII, we are concerned that promptness of settlements and salutory solutions might be rendered impossible by delay and dilatoriness. But we also perceive such occurrences to be problems beyond the control of the United States: as an incentive to others to utilize these procedures in a timely manner, this ISAC suggests that the Congressional Legislative History of the MTN trade implementing legislation call for unilateral application of U. S. statutory remedies such as Section 301 of the Trade Act of 1974 whenever unwarranted delays defeat the intent of the international process.

2. E. GOVERNMENT PROCUREMENT

In respect to the Government Procurement Code, this ISAC's concerns can be succinctly stated:

- Buy-American and similar preferences cover a comparatively small volume of industry products actually purchased with Federal funds or with monies covered by Federal guarantee. Preferences are invoked in such areas as DOD housing and Veterans Administration hospital purchases; and, more recently, in housing subsidized by HUD funds. Exempt from preferences are much larger product volumes: in the military post exchanges, and housing purchased (at less than average interest charges) under government-guaranteed mortgage plans. Conversely, among our trading partners, at whatever level of government the purchasing occurs, central government funding dictates a strict buy-national preference.
- The Code's threshold of SDRs 150,000 will, on an aggregated basis, expose the U. S. industries of this ISAC to additional foreign competition as offshore designs converge with those of the United States to create an increasingly international marketplace for consumer durables sold through contract rather than retail channels. By contrast, by reason of the Code's threshold, its uncertainties of transparency and entity coverage, we presently foresee little immediate opportunity for penetration of most offshore markets in comparable segments.

2. E. GOVERNMENT PROCUREMENT

- For our products, these government-related markets will be additionally restricted unless concomitant pressure to admit our goods is carried out in such areas as standards and certification acceptability, import licensing, and subsidization. Meanwhile, the enormous private sector U. S. market — already important to foreign suppliers of consumer electronic goods and small appliances — is becoming increasingly attractive to those same suppliers of major appliances whose designs are coming to rival our own.

Matters of coverage by threshold and entity aside, this ISAC believes the Code's provisions which establish rules for purchasing and procedures for redress to be excellent. We would hope that future bilateral and multilateral negotiations will secure market access for our products where we now see ourselves patently disbarred. As implementing legislation, we recommend:

- That all entities at Federal or other governmental and purchaser levels utilizing Federal funds and direct Federal guarantees be brought within the reach of such preference statutes as the Congress finds proper to cover in consequence of necessary changes to U. S. law occasioned by American adherence to the Code. Clearly, the housing, hospital and Federally-supported retailing fields should be comprehended in such a definition.
- That the preference be absolute in respect to non-signatory countries.
- That the preference be very high, but that its level and possibilities

for reduction thereof have sufficient incentive so that non-reciprocati but signatory countries will benefit upon granting entity coverage under the Annexes to the Code.

- That signatories withholding full transparency in bidding procedures, non-discrimination and/or dispute settlement benefits be treated identically to those who fail adequately to reciprocate in matters of entity coverage.

2. F. IMPORT LICENSING

The consumer durables which are the concern of ISAC 19 are highly sensitive to import license controls in a great many LDC's. These nations, for the most part, consider consumer goods to be luxuries to be relegated to priorities below industrial development, mass transportation and foodstuffs. Alternatively, licensing is utilized as a motivation to increase local production of similar goods. We are therefore familiar with pressures upon a national balance of trade which limit imports in the product categories of our interest.

Experience, however, has shown a propensity on the part of our trading partners in many LDC's to make plans and commitments that are conditioned by factors beyond their control. This, in turn, inhibits the U. S. manufacturer from planning suitable products and manufacturing programs for the needs of these markets. The availability of import licenses has been unpredictable and, when issued, such licenses have proved unusable due to non-availability of exchange or the application of punitive conditions and unrealistic time schedules.

This code, while it cannot be expected to achieve the elimination of trade restraining licensing, seeks to establish procedures which will provide a workable ambient for the conduct of international trade in product lines which are so controlled.

ISAC 19 members are therefore in favor of the code. At this time the U. S. does not require licensing of export or import activities between the U. S. and GATT signatory nations in relation to products of the industries represented by the ISAC. Therefore, other than a designation of administrative responsibility

2. F. IMPORT LICENSING

no specific legislative action is recommended or appears necessary to ensure U. compliance with the provisions of the code. For the present and foreseeable future our industries stand to benefit from this code in relation to our exports.

2. G. SAFEGUARDS

Because the Code of Conduct on Safeguard Measures remains incomplete at this review, ISAC 19 cannot provide definitive comment on its provisions and the interrelationships between its chapters. All three of the missing chapters are of concern to our industries for the following reasons:

- The controversial proposals in Chapter 4 that would permit "selective" safeguarding instead of requiring most-favored-nation actions appears to us to expose the U. S. markets to large and sudden influxes of imports whenever another large importing market to a major exporting nation (e. g., Japan or Brazil) suffers reduced demand through safeguarding intervention. Deprived suddenly of a major outlet for their goods and faced with production surplus, the exporting manufacturers would, we believe, turn to the United States where efficient wholesale and retail distribution systems can and do absorb large quantities of newly introduced imports.
- The converse, however, is not likely to be the case if a selective safeguarding action were taken against exports of the United States. In the product scope of our industries, few exporters have been able to establish alternative and compensatory marketing channels to the relatively slow and inefficient distribution systems of other importing countries.
- The related proposals on export restraints, now designated as Chapter 4 bis, provide similarly thorny problems. It may well be argued, for example, that the informal (and sometimes secret) agreements which

have limited Japanese exports of consumer electronic and electro-thermionic products to various European countries have served to redirect excess Japanese production capacity to the U. S. market. On the other hand, the U. S. preference for formal arrangements on selective export restraints typified by Orderly Marketing Agreements (OMAs) has proved susceptible to a different type of hazard: the transborder migration of technological skills and production capacity from the country under OMA restraint to another but unrestrained country. The export target, however, remains unchanged.

- That alternative selectivity might be accomplished through an international cartel for export restraint,[1] to us, begs more questions than its conceptual terminology contains answers. Given the probable modus operandi of such a cartel – certainly to apportion market shares among manufacturers, most likely to establish maximum and/or minimum prices, perhaps to compensate producers who accept sharply reduced export volumes – it is difficult to see how, under U. S. antitrust law, an American importer or an American exporter could participate in such a scheme without serious risk. For U. S. exporters, especially, this hazard of antitrust exposure would appear to preclude totally any market participation in the imports of a safeguarding country – unless the U. S. Government, offering suitable waivers, were itself a party

1) As suggested by working notes to Chapter 4 bis.

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to the management of the cartel.

- Finally, the yet-to-be-written provisions of Chapter 8 which will confer special benefits upon developing countries appear to be concerned wholly with degrees of self-abnegation on the part of Code signatories in invoking safeguard measures against LDC products. To an extent, such practice is doubtless desirable. But the taking of safeguard measures by developing countries against industrialized nations seems to have been an overlooked contingency: nowhere does the Code consider a standard, however relaxed, which will place a measure of discipline on the LDCs. For, in this ISAC's view of the export prospects for our own products, as other codes bring other import barriers under firmer control, it is obvious that developing countries will turn increasingly to the use of safeguards.

Of the Safeguards Code's written provisions, by contrast, ISAC 19 is highly approving. The provisions covering domestic procedures are either similar or identical to U. S. practice. The international procedures appear to be proper and necessary. Most particularly, we are hopeful that the Code will bring both discipline and transparency to a presently murky area of nationalistic trade practice.

We recognize that, in all probability, little conforming legislation will be required to bring the applicable U. S. statutes into consonance with the Code. On the other hand, we are disturbed that U. S. implementing law and

2. G. SAFEGUARDS

practice might not differentiate between signatories and non-signatories. The latter, whether industrialized or developing countries, should not in our opinion, receive the Code's benefits if they fail to observe the Code's obligations — which, ipso facto, include submission to surveillance and dispute settlement requirements. In particular, safeguarding non-signatories should not be accorded the Code privileges which discourage retaliatory action or demands for compensation between signatories.

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2. H. STANDARDS

The Agreement on Technical Barriers to Trade, in this ISAC's view, contains an excellent body of provisions. We see much in the Code that might eventually prove advantageous to our industries and little — assuming proper U. S. domestic implementation — that will become burdensome to the American system of voluntary standards.

In its basic provisions for the formulation of standards and certification systems, the Agreement establishes procedures which are today's norm for such domestic standards-making bodies of our industries as the Electronic Industries Association (EIA) and the Association of Home Appliance Manufacturers (AHAM). Similarly, the Agreement's requirements for unprejudiced testing and open access to certification systems in behalf of foreign suppliers reflect existing U. S. legal obligations for voluntary and mandatory systems alike.

On the presumption that the same provisions will now become binding upon other signatory governments and on regional systems to which the U. S. is not a party, this Agreement affords a potential for expanded industry exports into national markets where technical regulations, standards and certification procedures are today manipulated as an unnecessary trade barrier. Furthermore in our opinion, the Agreement's encouragement of the adoption of international standards should:

- impose a salutory discipline on the international bodies responsible for their development;
- cause a rapid increase in the formulation and issuance of such standards

- accelerate the process of international standards development; and
- improve comprehensiveness and precision in the coverage of standards and the application of their documents.

In the absence of applicable international standards, as a consequence of the Agreement we foresee a possibility that developing nations will be led to a greater acceptance of U. S. national standards, and thereby become better customers for our exports.

TOWARD IMPLEMENTATION

Despite our strong approval of the Agreement as an international instrument, in this ISAC's judgment the United States is not governmentally prepared for its advent. In truth, the country does not have a national standards policy, expressed either legislatively or in regulation. Mandatory standards or "technical regulations" of the type within the Agreement's coverage are left essentially to the parochial interests of the issuing Federal agency. Excepting only a few international treaty bodies engaged in standardization work, the U. S. Government pays scant attention to and participates even less in international and regional standards-making. The National Bureau of Standards, sorely beset by limitations and regardless of the often excellent work in its programs, cannot pass muster within the contemplation of the Agreement as a central information agency on U. S. standards practice.

If there is any evolving direction of a national policy in voluntary standards and certification, it is in the hands of the Federal courts, the

Department of Justice and the Federal Trade Commission. Their authorities are the Sherman and Clayton Acts and the Federal Trade Act. Thus, the major constraints and controls on the largest element of what should represent a distinct U. S. standards policy — as well as its administration — are in effect making such policy a subset of antitrust law. Necessary and proper as the ISAC believes such activity to be, antitrust focus is too narrow and in most instances inappropriate to deal with the wide purview of matters that inhere to standardization.

Accordingly, ISAC 19 strongly recommends the following as domestic implementing measures:

- That the relevant procedural requirements for standards-making, testing and certification bodies, as set forth in the Agreement, be recognized as preferable in their sufficiency to conflicting regulatory procedures that might be sought or issued by Federal enforcement agencies.
- That there be established a clearly defined single agency with administrative authority and responsibility for conducting all activities pertaining to all U. S. obligations and opportunities under the Agreement; and that the central informational body mandated by the Agreement be closely allied or subordinate to the responsible agency.
- That, for U. S. participation in and use of international standards activity, a programmatic agency with adequate funding be established for purposes similar to those contemplated by S. 1798 of the 92nd Congres

2. H. STANDARDS

Specifically, we foresee in the national interest a probable need for complementary Federal funding of voluntary standardization activities in three important areas: (i) the payment of U. S. national dues to international standards organizations; (ii) contributions to the travel expenses of U. S. delegates and technical experts to meetings of such bodies; and (iii) the provision of "seed money" to assist the start-up of international certification systems in the United States where these cannot be expected to be instantaneously self-supporting. It should be noted that most other national governments have provided such funds for many years in order to assure adequacy in their countries' participation in voluntary international standardization activities.

- That, given the importance of the voluntary and private sector community in the development and practice of standardization in the United States, extensive consultation with private sector advisory committees be an essential ingredient of policy formulation and execution on the part of the U. S. Government in pursuance of American interests within the Agreement's coverage.

2.1. STEEL

Because the major appliance industries within our ISAC's scope are substantial users of steel in its primary and secondary forms, we note with considerable interest that an International Steel Committee has been formed within the framework of the OECD. Recognizing that the international committee's work is in an early stage, we are pleased that among its commitments is the following statement:

> "No [steel crisis trade] actions should be inconsistent with GATT provisions." (At Clause 6. A. 1 of the text of the OECD committee's mandate.)

The view is expressed that, under such limitations, competition in steel supplies to the industry would be maintained — a condition considered to be of paramount importance to the major appliance segment of the ISAC. At present, this ISAC has no other comment on the evolving arrangement for steel.

2. J. SUBSIDIES

The Agreement on Subsidies/Countervailing Measures together with the provisions and procedures for its implementation by the United States carry especial significance to the future economic health of the industries comprising this ISAC. In a related fashion, the discrepancy between the Agreement's test of injury by reason of subsidization[1] and that of the U. S. Antidumping Act of 1921 (19 U. S. C. 160 et seq.) suggests that American adherence to and conformity with this Agreement should require simultaneously the revision in our domestic law so that both injury tests are identical. The members of ISAC 19 are aware of the technical problems arising from the circumstance that the GATT Antidumping Code and the Agreement on Subsidies/ Countervailing Measures are both conjunctive international agreements for implementing Article VI of the General Agreement. Moreover, we are cognizant of the fact that, after the Kennedy Round, the U. S. failed to implement the GATT Antidumping Code, and that only with the Trade Act of 1974 were the first steps of statutory conformity introduced into our law.

We recognize certain shortcomings in the GATT Antidumping Code — notably its lack of firm provision for establishing dumping through the principles of constructed value. But other provisions of that Code, as revised in the MTN, are useful: most particularly, in the effort to establish a common test of injury

1) See the Agreement at clauses I. 6. 1 to 9, passim, and the second footnote to clause I. 2. 1.

2. J. SUBSIDIES

with the Agreement on subsidization. After all, as practices both dumping and subsidy produce trade effects that are similar or identical in their manifest unfairness. Thus, although a common test of injury may not be absolutely essential to determinations of redress against either species of unfair trade practice, such test is nevertheless extremely desirable for reasons of consistency of adjudication, whether in administrative tribunals or in the courts under judicial review.

So too, we applaud the determination of the Congress to speed the course of determination in cases of both subsidy and dumping. Experience in our industries demonstrates that procedural delays — even if penalties might be imposed on some long deferred day — benefit the offender while causing further injury to the domestic industry. Accordingly, ISAC 19 approves the Agreement together with the tentative but prospective implementing legislation concerning both dumping and subsidization. But we enter also a strong caveat:

- The implementing legislation, so far as it goes, is almost wholly defensive. Yet, while the practice of dumping is almost wholly unredeeming, the Agreement on Subsidies clearly makes permissible a number of interventionary practices by governments which have general usage and competitive effects. Nothing in the U. S. implementing legislation suggests that this country will accord itself the benefit of many of these permissions. In short, the legislative package is seriously lacking: it tightens the defense against unfairness in important respects

but fails utterly to provide the concomitants of fair but aggressive exporting by the United States.

APPRAISAL OF THE EXCHANGE OF NEGOTIATED CONCESSIONS

By their agreement to the requirement of a prior determination of injury before imposition of a countervailing duty, the United States negotiators have in this ISAC's judgment granted a substantial concession to this country's trading partners. That most of our Committee members firmly believe the application and enforcement of the U. S. Countervailing Duty Statute (19 U. S. C. during the immediate and much of the more distant past to have been arbitrary and less than diligent, does not mitigate the essential nature of the concession.[2] Heretofore, the United States in the persons of the Congress and the Secretary of the Treasury has possessed the unilateral authority to determine a countervailable offense, whether injurious or not. The outcome has been situations in subsidy cases where U. S. action has been delayed beyond the point of effectiveness or has lapsed completely due to lengthy exploration of causes beyond the scope of the true injury.

Conversely, this ISAC recognizes that the U. S. negotiators have secured a number of provisions in the Agreement which might afford potential benefits to the U. S. foreign trade of our industries. Necessarily, the benefits must

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2) Subject, of course, to substantive and procedural amendments of the Statute embodied in the Trade Act of 1974 (P. L. 93-618)

2. J. SUBSIDIES

be labelled "potential" because adherences to the Agreement among the negotiating nations are prospective in part and national measures, including those of the United States, remain to be legislated or promulgated, and implemented. Nevertheless, in any effort that seeks to strike a balance on negotiated concessions which have been given and accepted, the possibilities open to improvement should be recognized. Assuming that satisfactory implementing measures are taken, the following features of the Agreement would be beneficial to those U. S. industries within the scope of our ISAC:

- The flat prohibition against injurious export subsidies on the part of developed nations, together with the rules for the gradual reduction and ultimate elimination of such subsidization by signatory developing countries.
- Elimination of the dual-pricing requirement in GATT rules as a necessary precondition to defining subsidization (and dumping).
- Expansion of the illustrative list of export subsidies which, together with the Agreement's requirements for greater transparency and notification of general and domestic subsidies, could improve the effectiveness of the (revised) U. S. Statute. As noted below, however, ISAC 19 has strong reservations on the Code's permissions and prohibitions governing taxation rebates, exemptions and deferrals.
- Recognition and rule covering governmental subsidies which normally are not countervailable. The Code's "second track" for defining

and dealing with these unfair practaces represents a long-needed and substantial improvement in the obligations for which subsidizing nations should bear responsibility.

- A well-defined and sufficiently stringent procedure for consultation and disputes settlement — and, if necessary, retaliation.
- The utilization of an injury test for both countervailing and antidumping purposes that is less onerous than present requirements of the U. S. Statute or GATT rules.

PRELIMINARY APPROACHES TO U. S. IMPLEMENTATION

In many of the codes which have emerged from the MTN — but especially in respect to the Subsidies Agreement — it has been this ISAC's perception that the key to U. S. benefits lies at least as much with domestic implementing measures and subsequent U. S. governmental organization and practice as with the texts of the agreements themselves. Therefore, as domestic implementation steps to an acceptable and workable Subsidies Agreement in the national interest as well as the interest of liberalized but fair trade, ISAC 19 recommends:

- That U. S. administrative authority and responsibility within the Executive Branch for implementing this Code and others should be constituted and centralized so that trade policy and its execution shall not be a subordinate function of the agency. In short, trade policy should not be hostage to other foreign policy considerations.

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- That, in respect to non-signatory countries, no injury test be required upon invocation of the U. S. law on countervailing duties when their dutiable imports have been found to be subsidized.
- That the "implementation package" as passed by the Congress declare unequivocally that no U. S. intention is implied or effected to repeal the DISC statute.
- That, at very early date and certainly in this Congress, comprehensive and substantial programs for export assistance to manufacturing should be enacted and adquately funded. In particular, our industries need customer export credit and other financing loanables appropriate to "short-cycle" goods; assistance in export product development commensurate with the costs of export marketing development; the ability of smaller or narrow product-line manufacturers to utilize overseas sales and service organizations that are U. S. owned, without antitrust hazard to either party; aggressive U. S. -to-foreign-government representation where import-market subsidies abrade our competitive edge; strong representations against unfair competition in third-country markets.
- That industry advisory committees, similar in scope and function to the ISACs but with improved consultative opportunities, be required adjuncts of the agency or agencies authorized to execute U. S. trade policy and administer the country's trade relations.
- That the U. S. Antidumping Act of 1921 be amended so that its

provisions contain an identical injury test to that contained in the Subsidies Agreement. Further, that this Act also be amended to conform to Article 10(d) of the GATT Anti-Dumping Code, thereby assuring that a withholding of appraisement after a provisional finding of dumping be limited to a period no longer than four months.

- That cases and actions currently undergoing determination, litigation or settlement under presently existing statute and regulations should be completed under the same law and procedures, regardless of any changes in law which might evolve from subsequent implementing legislation and become operative at a later date while such actions remain unresolved.

THE STATUS OF DISC

At the outset of the MTN, pursuant to Sec. 121(a)(5) of the Trade Act of 1974 it had been this ISAC's advice that the U. S. negotiators seek a substantial mitigation or elimination of the trade distorting effects of border adjustment for indirect taxes. Concomitantly, absent such a resolution of the border tax distortion, we urged that no concessions be granted by the United Stat that would or might call into doubt or surrender the benefits to U. S. exporters derived from utilization of the Domestic International Sales Corporation (DISC). Revision to border adjustment practices, however, has proved a non-negotiable subject in the MTN, but the status of the DISC is placed in doubt by the wording of Note 2 to Paragraph (e) of the Annex to the Agreement. The determination

2. J. SUBSIDIES

of DISC's legality in international law appears to have been deferred to possible future negotiation on direct taxation practices, the outcome of which is unpredictable. At worst, following implementation of the Agreement, DISC might be open to direct attack by another signatory under Article VI of GATT.

It should be noted by the Congress that the DISC as a deferral of a direct tax is the only meaningful U. S. export assistance program of benefit to the industries of ISAC 19. Conversely the border adjustment process for indirect taxes on goods intended for export constitutes a major penalty which must be overcome by the U. S. or other exporter is a third country. It also enhances the opportunity of an overseas exporter to enter the U. S. market where otherwise such goods would be uncompetitive with domestic production.

The U. S. negotiators – partly, it should be said, in recognition of ISAC advice – have repeatedly assured us that other parties to the MTN do not interpret the Agreement's provisions to define the DISC automatically as a countervailable export subsidy,[3] and that nothing in the implementing package to be sent to the Congress later in this session will call for DISC's elimination. Inasmuch as DISC's future thereby depends upon Congressional implementation, this ISAC urges that (whether in the implementing package or in future trade

3) If DISC is an export subsidy in any form, the subsidy lies in its absence of an interest cost. Any computation of countervailing duty would thus depend upon size of a particular exporter's DISC reserve fund and the profit margin on a particular exported product.

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legislation) Congress defends this U. S. export assistance program against attack by other signatories to the Agreement.

3. TARIFFS

Throughout the entire period of the MTN the advice of this ISAC in respect to tariff reduction has emphasized three general points:

- That U. S. concessions should be granted on a quid pro quo basis.
- That, although certain foreign tariff levels have created a number of specific export handicaps, tariff reduction unaccompanied by significant easing of non-tariff barriers and discipline in other non-tariff areas would afford scant benefits to our industries. Thus, we urged consistently that concessions gained and granted must be evaluated in a total sectoral context of tariffs and non-tariff measures.
- That every effort made to secure tariff reduction should, where applicable carry a requirement that such tariffs be bound.

In regard to the major developed nations and most other developed countries, the negotiated results accord in the main with our advice and perceived needs. There is, however, major disappointment with the lack of progress in these negotiations with the less developed countries, most of whom have highly restrictive duties against our products and some of whom have utilized these protective walls (along with other measures) to develop competitive exporting industries.

It is our appraisal that the following summary fairly states the situation emerging from the tariff negotiations:

- The Europeans and the Japanese have reduced their tariff rates on the basis of an approximate parity with the U. S. cuts in our product areas.

3. TARIFFS

Some anomalies remain, but for the most part there is little meaningful difference in the rates between countries. Some protection of course continues to exist because of these rates but no country enjoys an exceptional advantage.

- Canada has made very substantial concessions in a number of consumer durables areas, notably in electronics and small appliances. In consideration of the beleaguered condition of that country's appliance and electronics industries, Canada's remaining protectionism in our products should, at most, be viewed as compensatory rather than exclusionary.
- Australia's major concession lies not in rate reduction but in its commitment, for the first time, to bind its rates at scheduled GATT levels. The advantages, here, to the U. S. lie in an evolutionary prospect: new U. S. export products cannot henceforth be confronted by suddenly escalated rates which — as has happened often in the past — close the border against imports in order to favor low volume, relatively inefficient producers. At the same time, given U. S. initiatives we foresee some possibilities for near-future bilateral negotiations in which the trade benefits to this country lie in the sale of consumer goods especially well adapted to Australian affluence and life styles.
- While almost all U. S. rate levels in our product scope have been reduced consistent with our advice, we are pleased to note that the tariff on

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microwave ovens — though only four percent — is unchanged, thereby retaining some small measure of defense against some questionable competitive import practices. In the TV area, the existence of an Orderly Marketing Agreement precluded tariff change.

- At this writing, such LDC tariff concessions as we have seen are negligible and do not reciprocate most-favored-nation concessions by the United States. In any event, LDC tariff concessions are worth little unless accompanied (i) by an LDC commitment to bind conceded rates and (ii) by country adherence to the non-tariff measures agreements bearing on the product concerned. We remain hopeful that some LDCs will come to such agreements after the conclusion of UNCTAD V, but our expectations are not high.

All in all, then, ISAC 19 views the tariff negotiations package as a balanced one. We are satisfied with the result.

U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON SCIENTIFIC AND CONTROLLING INSTRUMENTS FOR MULTILATERAL TRADE NEGOTIATIONS (ISAC #20)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 19, 1979

Chairman, ISAC #20

1. OVERALL

ISAC 20 considers non-tariff measures to be of primary importance. We believe on balance the codes and agreements develope in these multilateral trade negotiations promote the economic interest of the United States and provide equity and reciprocity in the sector represented by ISAC 20. Accordingly we endorse and urge adoption of the Government Procurement, Subsidies, Standards, Customs Valuation, Import Licensing Codes and the Aircraf Agreement and the suggested changes in the framework of the GATT.

Due to its incomplete state we are unable to comment substantively on the Safeguards Code. We may wish to comment when this Code is further along. We are not commenting on the Counterfeiting and Steel Codes since they do not appear to be of significant interest to this sector.

The members of ISAC 20 support the expansion of the GATT mechanisms to review complaints and to resolve disputes in a timely manner. In order to benefit, however, the United States must develop and adequately staff an appropriate organization to direct and oversee these new arrangements. ISAC 20 believes this organization should have:

1. OVERALL

- Cabinet level status with independence of action,
- Sufficient resources to handle its responsibilities in an expeditious manner,
- Continuing authority to conduct some trade negotiations, especially in non-tariff areas
- Continuing advisory support from U.S. industry, agriculture, and labor.

2.A. AIRCRAFT

ISAC 20 supports the proposed agreement on trade in civil aircraft as a particularly important contribution to U.S. economic policy. ISAC 20 finds particularly welcome such features as achieving agreement on forbidding quantitative restrictions, reducing import licensing requirements, and the elimination of offsets, directed purchases, and other discriminatory inducements.

ISAC 20 supports the Aircraft Agreement as a particularly effective example of a trade agreement within an industry sector.

2.B. COUNTERFEITING

The members of ISAC 20 have considered the Commercial Counterfeiting Code and believe the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

2.C. CUSTOMS VALUATION

ISAC 20 supports this Code because it believes the simplification of customs valuation procedures will achieve significant economic advantages for the United States.

Customs procedures would be simplified through the use of a system of valuation patterned after existing U.S. concepts which emphasize the stated value of each transaction rather than some arbitrarily determined amount. Adoption of this Code will reduce the delays and difficulties of agreeing on customs value which presently discourage purchases outside the United States. By adding certainty to the process of customs valuation, the Code will facilitate exports and increase the number of jobs in this country.

The Code also recognizes the economic realities of transactions between related parties. It does so by using transaction value as the primary basis for customs valuation, even if that value differs from that which would occur if the tran tion was with unrelated parties.

The Customs Valuation Code establishes a two-level dispute settlement mechanism: an overall review group under the GATT Secretariat, and a technical committee under the Brussels-based Customs Cooperation Council. ISAC 20 believes the latter committee

2.C. CUSTOMS VALUATION

will provide a powerful incentive to expanded international trade by ensuring uniformity of customs interpretations from country to country.

2.D. GATT FRAMEWORK

The members of ISAC 20 support the new GATT framework arrangements, particularly those portions that strictly enforce the rapid assumption of full responsibilities by the developing nations (LDCs) in exchange for special and differential treatment. This comment applies especially to the provisions on safeguards for development purposes which allow the LDC's to impose import restrictions to encourage infant industries. However, ISAC 20 is disappointed that a firm timetable for review and possible modification of these restrictions is not specifi in the text. The provisions for "graduation" have special significan to the members of this ISAC because in this sector the more advanced LDC's are rapidly becoming competitive.

ISAC 20 also notes with favor that the agreement preserves the U.S. freedom of action on its Generalized System of Preferences, in that there is no obligation to extend GSP beyond its present 10-year term, nor any impediment to modifying its terms. ISAC 20 welcomes those portions of the agreement which discourage the present European practice of extending and maintaining bilateral preferential agreements with former dependencies.

2.D. GATT FRAMEWORK

The framework agreements strengthen existing provisions regarding notification, consultation, dispute settlement and surveillance. ISAC 20 believes these modifications are important to U.S. relations with other developed countries as well with the LDC's. ISAC 20 hopes that these modifications will go far towards discouraging present dilatory tactics in the settlement of disputes and "bending of the rules" to the disadvantage of the United States.

The framework agreement regarding export control measures entails a commitment to reconsider "in the near future" the present GATT rules on export restrictions. Although this falls short of Section 121(a) (6) of the U.S. Trade Act of 1974, ISAC 20 believes the commitment is important to the United States as a way of assuring sources of supply in a world where shortages of basic materials are of increasing concern.

2.E. GOVERNMENT PROCUREMENT

ISAC 20 supports the Code as a considerable improvement over existing foreign government procurement practices. The Code provides, subject to entity and threshold limitations, national treatment and nondiscrimination, ex ante publicity, right to bid, inquiry rights, fair handling of bids, ex post information, limits on offset and licensing requirements, and tight dispute settlement procedures.

Although ISAC 20 continues to be interested in substantially lower thresholds, it understands the reasons for and relunctantly accepts the relatively high threshold of 150,000 SDR's for full transparency and other benefits. We concur with the full retention of Buy American and other U.S. preferences on transactions below the threshold and in noncovered entities. We also endorse the provisions in the code which permit adding entities and re-opening discussions with a view towards broadening and improving the agreement on the basis of mutual reciprocity.

2.F. IMPORT LICENSING

ISAC 20 supports this code as a major step toward persuading the signatory countries that cumbersome and discriminatory import licensing procedures are detrimental to trade.

The licensing code reduces the amount of information required to support import license applications. This alone should resolve many current problems. The code also calls for import licenses to have sufficiently long validity periods to permit shipment even in the event of normal commercial delays.

ISAC 20 believes the primary advantage of the licensing code in stimulating international trade lies in its attempt to reduce the frustration level that exists in most import licensing situations.

2.G. SAFEGUARDS

Although ISAC 20 believes many of the concepts in the draft code are desirable--transaction openness, selectivity, proof of injury, establishment of a GATT committee on Safeguards, etc.--it finds the text of the code insufficiently complete at this time to warrant a report. ISAC 20 urges that negotiations be continued in the belief that this code, supported by the other developed countries, would be in the best interests of this sector and of the United States.

ISAC 20 may wish to comment on the safeguards code when a more complete draft becomes available.

2.H. STANDARDS

ISAC 20 supports adoption of this Code since it would: (1) facilitate access to foreign markets for virtually all of this ISAC's products, and (2) discourage future development of discriminatory product standards and testing and certification systems which would have an adverse effect on U.S. exports.

In particular the members of ISAC 20 support the following notable innovations:

1. Encouragement of voluntary international standards.

2. Requirements for performance standards rather than design standards.

3. Transparency (publication, establishment of a centralized data base, etc.) which would permit the United States to provide information and make suggestions during the formulation and application of new standards and certification systems. Under these transparency provisions the legitimacy of requests for exception could also be examined; a most desirable feature.

4. Provision for the signatories of the Code to use their best efforts to achieve compliance by regional, state, local and private organizations.

5. Establishment of specific dispute settlement procedures.

2.I. STEEL

The members of ISAC 20 have considered the Steel Agreement and believe it is not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code.

2.J. SUBSIDIES

The members of ISAC 20 believe that this Code will provide economic benefits to the United States. We note with satisfaction that these benefits will accrue only to those countries that sign the Code and accept its obligations.

ISAC 20 welcomes the definitions and illustrative lists of export and domestic subsidies contained in the Code and believes that this will bring a needed degree of commonality into the practices of the signatory countries. In particular we believe that the prohibition of subsidized export financing, exchange risk insurance, and inflation insurance will improve export opportunities for U.S. firms. We also note with satisfaction that adherence to the code does not require elimination or modification of the DISC tax provisions of the United States. We hope that part will be reflected in the history of the implementing legislation.

A major U.S. benefit from the Code will be the bringing of our treatment of code violations into closer harmony with that of the other signatories. Moreover, the ability to apply quickly provisional measures before detailed subsidy investigations are completed should greatly protect U.S. interests.

The members of ISAC 20 recommend that the United States accept a material injury test and adopt conforming changes in its anti-dumping legislation. We believe that a common set of subsi

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dumping rules would be in the interest of the United States and that adoption by other countries of the same rules would be advantageous to U.S. exporters.

The "serious prejudice" features of the Code should greatly benefit U.S. exporters by protecting them from unfair import competition in third countries and from being shut out of various markets by import substitution schemes. The ability to act quickly in such circumstances, absent a show of injury, and the availability of improved dispute settlement procedures should make these provisions, as well as others in the Code, most useful to the United States.

PRELIMINARY TARIFF REPORT

ISAC 20 has reviewed the tariff offers of our major trading partners and of the United States. Despite several reservations, ISAC 20 believes these offers will promote the economic interest of the United States and provide equity and reciprocity in this sector.

The first of our reservations concerns the split by the European Community of BTN category 9028A into two parts: "TOO", which would receive a substantial reduction in duty from 13.0 to 7.2%, and "TO2", which would receive an extremely modest reduction from 13.0 to 11.0%. This contrasts with the U.S. offer to reduce its duty rates on all these products from 10.0 to 4.9%--a greater than formula cut. ISAC 20 is deeply disturbed by the imbalance that would result from this EC ex-out and the differing duty rates, especially since the "TO2" category contains many advanced electronic instruments under development whose U.S. export potential will be adversely affected by the high EC duty rate. We believe the United States should seek the EC's removal of its distinction between "TOO" and "TO2" and the application of the 7.2% rate overall. If the EC persists, we believe the United States should make a corresponding ex-out and offer a formula cut for "TOO"-type products, 10.0 to 5.8%, and withdraw its offer for "TO2"-type products, retaining the present 10.0% U.S. duty rates.

The second reservation pertains to the U.S. offer to make additional cuts in its already low duty rates for X-ray apparatus and X-ray tubes from 3.0 and 2.5% to 2.5 and 2.1%, respectively. ISAC 20's position has been and continues to be that U.S. duties on these products should not be reduced unless our major trading partners agree to adjust their X-ray duty rates to comparable levels.

This is not the case since the EC has offered to reduce its rates to levels of 4.6 and 5.8%, depending upon the X-ray product, and Japan to 4.2%. For this reason, rather than reduce U.S. duties still further, ISAC 20 would wish see the United States withdraw its offer and retain its duties at the present rates of 3.0 and 2.5%.

A third reservation concerns optical microscopes. The U.S. offered a 35% duty cut, 7.5% to 4.9%, on these products, while the EC offered only a 5% cut, 10.5% to 10.0%. ISAC 20 asks that another effort be made to secure an EC formula cut to 6.3%. If this cannot be accomplished, we believe the U.S should withdraw its offer.

A fourth and final reservation concerns what we believe to be insufficier U.S. offers of tariff reductions for certain products, e.g., watch cases of base metal, where, because of apparent inadequate domestic supplies, there is unavoidable need for imports. We recommend rectification of conditions such a the extension of tariff negotiating authority which is being considered.

ISAC 20 would like to have seen Australia and New Zealand offer appropriate duty reductions or, failing this, at least offer confirmation tha By-Law exceptions would be retained. Although neither of these objectives wa obtained, we do recognize and appreciate the commitment of these two countrie to bind their offers.

ISAC 20 has not had an opportunity to review the proposed tariff agreements reached with the LDCs and thus is not able to comment on the suitability of these proposals to the products represented by this ISAC.

ISAC 20 has two additional concerns relating to the tariff agreements. One is our hope that the full tariff cuts, except on clocks, can be implemented as soon as possible and not spread out over an eight-year period. The second is that under no circumstances should any signatory be permitted at any point during the staging process to abandon the tariff cuts to which it has agreed.

Finally, we fear that at some future date some of the signatories may seek to shift certain commodities from low to high duty categories. It appears this would be particularly easy to do in the case, for example BTN 9028A, as discussed above. Continued vigilence by the United States followed by appropriate protests is essential.

NEGOTIATIONS UNDER THE TRADE ACT OF 1974

REPORT BY

INDUSTRY SECTOR ADVISORY COMMITTEE 21
ON
PHOTOGRAPHIC EQUIPMENT AND SUPPLIES

TO THE

OFFICE OF THE SPECIAL TRADE REPRESENTATIVE

AND THE

UNITED STATES DEPARTMENT OF COMMERCE

FOR SUBMISSION TO THE

PRESIDENT

AND THE

CONGRESS OF THE UNITED STATES

MAY 14, 1979

Joseph T. Mo
Chairman, ISAC

1. OVERALL

The members of ISAC 21 appreciate the opportunity to submit this report to the President and the Congress of the United States and to lend support to the successful conclusion of the current round of multilateral trade negotiations.

Codes

Our report is based upon the negotiated agreements and codes which were initialed on April 12, 1979. We generally support the agreements and codes as noted more fully in the individual comments submitted as part of this report. In our judgment these agreements and codes promote the economic interest of the United States and provide for equity and reciprocity within the photographic product sector.

Tariffs

The primary negotiating objective sought by the United States photographic industry as represented by ISAC 21 has been to obtain tariff parity for sensitized photographic products within the developed nations of the world. The accomplishment of this objective requires that Japan reduce its existing tariffs on photographic films and paper to a level approximately equivalent to the present United States tariffs on these products. The Japanese offers annexed to the "Proces Verbal" of April 12, 1979 provide for reductions which will ultimately bring that nation's bound tariffs to a

level of 4 percent on color films and paper and to a range of 7-9 percent on most other films, thus substantially reducing the disparity which exists today.

It is imperative that the Japanese reductions be staged down in dual fashion from the rates that are currently applied rather than from the GATT bound rates alone. While GATT staging is important in the long term, the existing disparity between bound and applied rates would make a GATT only reduction detrimental to the United States for the first five or six years of the staging period.

It is our understanding that Japan has agreed unilaterally to stage its tariff reductions from current applied rates beginning in 1980.

General

ISAC 21 strongly supports the establishment of ongoing public advisory committees as a continuing step in furthering the long-term commercial interest of the United States in world trade.

The committee further recognizes that for the agreements and codes to be effective there must be strong implementation and monitoring by the United States and other signatory nations and increased participation by countries who have not signed to date. We would be supportive of activity directed at these objectives.

ISAC 21 would also welcome legislative consideration directed at easing United States government impediments to exports.

2. NONTARIFF CODES

A. Aircraft

The committee has considered the agreement on trade in civil aircraft and believes the matters covered by the agreement are not of significant interest to the sector. For this reason it does not appear appropriate to report on the agreement.

2. NONTARIFF CODES

B. Counterfeiting

ISAC 21 recognizes that a code on counterfeiting has not been finalized, and therefore a report is not appropriate.

While the subject of commercial counterfeiting is generally not considered to be a major problem to this sector, we appreciate its importance and support the work to date. ISAC 21 would reserve final comment until such time as an appropriate code is developed.

2. NONTARIFF CODES

C. Customs Valuation

The members of ISAC 21 strongly support the Customs Valuation Code. The elimination of heretofore arbitrary uplifts in value applicable to products of our industry should prevent the substitution of an inflated tariff value for a reduced tariff.

In addition, the clarifications of related party transactions will greatly assist in the application of the Code's other provisions.

On balance, this Code is a significant step in reducing a nontariff barrier.

2. NONTARIFF CODES

D. Framework

ISAC 21 supports the Framework Code. In the long term this Code will significantly benefit world trade.

2. NONTARIFF CODES

E. Government Procurement

ISAC 21 supports the Government Procurement Code.

While the currently established threshold of 150,000 SDR's precludes the application of the Code to many photographic contracts, we recognize that as written it offers major benefits to a large part of United States industry.

2. NONTARIFF CODES

F. Import Licensing

The committee supports the Import Licensing Code.

2. NONTARIFF CODES

G. Safeguards

While there is no safeguard code finalized at this time, the committee supports the developmental work to date and the United States objectives.

2. NONTARIFF CODES

H. Technical Barriers to Trade (Standards)

ISAC 21 strongly supports the Technical Barriers to Trade Code.

In the absence of this Code international standardization has the potential to become a major trade barrier as tariff and other more conventional barriers are reduced or eliminated.

For the Code to serve the interest of the United States, it is imperative that the present voluntary standards system be continued with the Federal government as a participant not a regulator of the system's practices and developmental processes.

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2. NONTARIFF CODES

I. Steel

The committee has considered the issue of steel and believes the matters covered by the agreement are not of significant interest to the sector. For this reason it does not appear appropriate to report on the agreement.

2. NONTARIFF CODES

J. Subsidies

ISAC 21 strongly supports the Subsidies and Countervailing Measures Code.

We are gratified to note that the Code makes no changes in the existing United States DISC tax provision.

4. TARIFF AGREEMENTS

General

The tariff agreements attached to the "Procès Verbal" initialed on April 12, 1979, indicate that there has been substantial achievement of the ISAC 21 goal of tariff parity for the products of this sector among the major trading entities of the world. On a weighted trade basis the tariff cuts from the GATT bound rates are favorable with respect to United States trade with Japan, United States trade with the EEC, and United States trade with Canada.

Because of the disproportionately high Japanese bound tariffs on sensitized goods, the true measure of this sector's achievement of its primary objective--tariff parity--may now be assessed since it is our understanding that the Japanese have agreed unilaterally to reduce their tariffs in a dual staging fashion from the bound rate and simultaneously from the current applied rate beginning in 1980.

The size of the Japanese market and other factors, such as multinational access in other trading areas, makes the Japanese position pivotal. The United States government should therefore attempt in every way, to seek assurances from the government of Japan that it will maintain this unilateral action and will not seek exceptions in the future which would thwart the intention of this agreement.

4. TARIFF AGREEMENTS

A. Canada

The members of ISAC 21 support the agreement with Canada which provides for approximate Canadian tariff cuts of 40 percent with reciprocal cuts by the United States of approximately 27 percent on a weighted trade basis.

4. TARIFF AGREEMENTS

B. European Economic Community

The members of ISAC 21 support the agreement with the EEC which provides for approximate EEC tariff cuts of 42 percent with reciprocal cuts by the United States of approximately 33 percent on a weighted trade basis.

4. TARIFF AGREEMENTS

C. Japan

The members of ISAC 21 support the agreement with Japan which provides for approximate Japanese tariff cuts of 55 percent with reciprocal cuts by the United States of approximately 44 percent on a weighted trade basis.

4. TARIFF AGREEMENTS

D. Other Developed Countries

ISAC 21 supports the tariff agreements with other developed countries.

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON COMMUNICATION EQUIPMENT AND NON-CONSUMER ELECTRONIC EQUIPMENT FOR MULTILATERAL TRADE NEGOTIATIONS (ISAC #22)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 23, 1979

J. H. Lasley
Chairman, ISAC #22

1.A. EXECUTIVE SUMMARY

ISAC 22 substantially supports the agreements and codes as notified to the Congress, and, except as noted below, believe that they significantly "promote the economic interests of the United States" and "provide for equity and reciprocity within the sector".

Disputes:

We recommend that the Resolution of Disputes under all the Codes be made as judicial in nature as practicable, somewhat in the order of accepted norms of International Arbitration with adequate fact-finding apparatus.

Government Procurement Code:

As explained in our enclosure on this subject, we believe that the economic interests of the United States as well as equity and reciprocity within the sector require that the Buy American protection in this ISAC's area continue in their present posture of denying our trading partners access to selected U. S. Government entities until they make trade with their PTT entities available to U. S. companies. We support the continuation, on the grounds of national security, of Buy American preference for the U. S. telecommunications industry in purchases by defense related agencies.

Safeguards:

Although we support what has been notified on this Code lack of final agreement in areas such as selectivity and treatment of developing countries makes it necessary for us to withhold further comment for the present.

1.A. EXECUTIVE SUMMARY

Subsidies:

We support the proposed code with a caveat, as noted above, that we would feel more comfortable with an improved disputes procedure.

GATT Framework:

We are in support of the GATT Framework modifications. In addition, however, our enclosed report on this subject recommends an Office-of-the-President entity to take responsibility for implementing the basic GATT agreement and the treaty obligations and opportunities arising from the current round of negotiations.

The ISAC commends the STR for its careful attention to our suggestions and its significant accomplishments in this round of tariff and trade negotiations.

2.A. AIRCRAFT

ISAC 22 has vital interests in respect to the avionics content of aircraft to be covered by this agreement and therefore reserves the right to express its views when such agreement is finalized.

As it is now our clear understanding that all and other electronic equipment normal to the operation and maintenance of civil aircraft we enthusiastically support the agreement and recommend its acceptance.

2.B. COMMERCIAL COUNTERFEITING

The Committee has considered the issue of commercial counterfeiting and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the ISAC prepares its final report under Section 135 (e) (1).

2.D. FRAMEWORK

U. S. IMPLEMENTATION OF GATT

ISAC 22 substantially supports the Framework Agreements notified to the Congress, under the provisions of the Trade Act of 1974, on January 4, 1979, and excepted as noted below believes that the agreements "promote the economic interest of the United States" and "provide for equity and reciprocity within the sector."

ISAC 22 supports the action of the Codes to expand the powers of GATT to investigate complaints and to resolve disputes in an orderly and expeditious manner. It notes that these new precedures will bring its member governments significant new obligations in support of GATT.

The ISAC is pleased that there is now a provision for LDCs to become reclassified as DCs through graduation. The procedure should, however, be definitized with specifics so that an LDC will definitely become a DC when it reaches a certain point in its economic development. Abuse will continue until there is such a rule.

We commend that the Congress expand the duties of the STR to include the administration of the GATT Codes and rename it as the "U. S. International Trade Agency, Executive Office of the President" (not to replace the International Trade Commission). It should have the following characteristics:

- Independence of action to pursue U. S. long-term economic and commercial interests

2.D. FRAMEWORK

U. S. IMPLEMENTATION OF GATT

- Adequate resources to support a talented permanent full time staff, headed by an official of Cabinet rank
- Provision for an industry advisory structure
- A charter than provides for expeditious action.
- Authority to negotiate trade agreements

2.E. GOVERNMENT PROCUREMENT

ISAC 22 substantially supports the Government Procurement Code and, except as noted below believes that the code "promotes the economic interest of the United States" and "provides for equity and reciprocity within the sector."

SUMMARY

ISAC 22's primary concern is the limited entity coverage offered by other nations, especially, in telecommunications.

In view of the evidence that other nations will not in the foreseeable future give access to their PTT and other telecommunications markets, we believe that the Congress should by resolution discourage purchase of off-shore equipment by U. S. Federal-and state-regulated telecommunications utilities, subject to opening of other national markets reciprocally to U. S. suppliers. Nothing herein is intended to supplant bilateral agreements with any nation.

DETAILS

Specifically, the EEC has exempted all of its Post and Telegraph administrations (PTTs which own and operate all the telephone systems). Although, there are rumored to be changes, Japan has exempted the Nippon Telephone and Telegraph Company (NTT). At present, these and their suppliers are, by far, the principal potential markets for our products. Only Sweden and Switzerland are offering their PTTs. To counter, or balance, these reservations by the EEC and Japan, the U. S. has withdrawn from its offer coverage of the Department of Energy, the Department of Transportation, the Corps of

2.E. GOVERNMENT PROCUREMENT

Engineers, TVA, the Bureau of Reclamation, and GSA (for telecommunications only). This brings the U. S. overall offer of coverage to about $12.5 billion versus $11 billion for the EEC and $4 billion for Japan--no gain for our particular industries but probably no loss in the U. S. market either. The STP negotiators, the DOD itself and the Congress must try to ensure that DOC achieves, within the limits of national security interests, a balance for U. S. industry in what it gives away to foreign suppliers in MOUs, such as that with the U. K. or other offset agreements, versus what U. S. industry receives in return in otherwise unattainable business opportunities.

We believe the code, designed to discourage discrimination against foreign suppliers at all stages of procurement process, accomplisheds its objectives by inclusion of specific rules covering the drafting of specifications, advance publicity of tenders, restrictions in the use of single tendering, time allowed for bidding, supplier qualification, right of all potential suppliers to bid, opening and evaluation of tenders, awarding of contracts, requirements for ex-post facto information, and procedures for hearing and reviewing protests.

We are pleased that the final plan is responsive to our request that there be only a single threshold, and that the U. S. continue to retain Buy American for non-covered procurements.

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2.E. GOVERNMENT PROCUREMENT

IMPLEMENTATION

U. S. - As we see it the agreement will not require significant changes in current U. S. procurement procedures.

FOREIGN - Significant changes in procurement practices will be required of all foreign signatories to insure transparency and non-discrimination.

CONCLUSION

The proposed code's coverage constitutes what should be a real beginning to the opening of government markets.

This ISAC recognizes a legitimate concern on the part of all countries that they maintain a strong internal telecommunications design and manufacturing capability. Therefore, we endorse, and strongly support the exclusion of departments of defense telecommunications from the Government Procurement Code on the grounds of national security of the signatories to the treaty, and recommend that all telecommunications systems, equipment and components be excluded from coverage of the Code except upon the basis of bilateral negotiations.

2.F. IMPORT LICENSING

ISAC 22 supports the import licensing code as it is currently written, as notified to the Congress, under the provision of the Trade Act of 1974 and believes that the agreement "promotes the economic interest of the United States" and "provides for equity and reciprocity within the sector."

2.G. SAFEGUARDS

ISAC 22 substantially supports the Safeguard Code, and except as noted below, believes that the code "promotes the economic interest of the United States and provides for equity and reciprocity within the sector."

Since the Key issues of this code: the nature of safeguard action, use of export restraints, and special benefits for developing countries are still unresolved, our comments must at present be limited. However, ISAC 22 in general supports the concept of selectivity in restricting imports, rather than MFN treatment. It also, while preferring the use of tariffs, sees certain advantages to orderly marketing agreements, but will reserve further observations until the language of Chapter 4 (bis) is made available.

The section of the agreement of developing countries, Chapter 8, as outlined in the summary document, appears to offer a reasonable approach to this difficult problem. Remarks on substance, again, must be withheld until a fulltext is given us. We so urge here that thought be given to methods of identifying the stages in development and the point or points at which a developing country can be said to have become one of the developed nations. It would be more definitive to indentify for developing countries ther product line or item, and to provide them special consideration only to the point, that their trade becomes a significant percentage of world production of these items.

2.G. SAFEGUARDS

In Chapter 6, relating to Surveillance and Dispute Settlement, Footnote 3, on page 17 gives ISAC 22 some concern. It is our view in this code as in the others, that industry input should be a continuing part of these activities and that a mechanism to institutionalize this relationship should be part of the enabling legislation.

2.H. STATEMENT IN SUPPORT OF THE STANDARDS CODE

ISAC 22 substantially supports the Standards Code, and believes that the code "promotes the economic interest of the United States" and "provides for equity and reciprocity within the sector."

ISAC 22 has followed and participated actively in the development of the standards code. We accept and strongly endorse the draft of the code sent us under date of December 27, 1978.

This code will establish for the first time a legal basis, internationally, for the fair and equitable promulgation of standards and certification systems in such manner as to avoid or minimize their use as barriers to trade. This is very much in the interests of the foreign trade of the U. S.

Absent this code, the U. S. has been subject to numerous instances of the discriminatory application of standards and certification procedures, without a legal basis, i.e., in the existing GATT treaties, for complaint or redress. The present code corrects this situation.

Acceptance of this code will require some changes in the procedures of U. S. governmental and voluntary sector standards-making bodies. Likewise, changes in the Rules of Procedure of international standards-making bodies, such as the IEC and the ISO, will be necessary. However, these can be expeditiously accommodated with goodwill on all sides, and will be in the best interests of U. S. foreign trade.

It is probable, in our opinion, that a cooperative body of government and the voluntary sector in the U. S. will be necessary to fully meet the obligations of this code.

2.H. STANDARDS CODE

Members of ISAC 22 have commented directly to hearings of the STR on the proposals to be included in the implementing legislation regarding the standards code. Specific recommendations have been made to most important differences relating to the proposals regarding international standardization activities Section E, and resolution of complaints about standards and certification practices Section 1D. Our recommendations are Sections E "international standardization activities, change to "Secretary of Commerce should have responsibility for coordinating interest of the Federal government and private sector organization for U. S. participation in international standardization activities..."

Section F 1d change wording to read... "the STR is to establish a joint committee of the interagency council on standardization and representatives of the affected industries to consider ..."

2.I. STEEL

The Committee has considered the issue of steel and believes the matters covered by the code are not of significant interest to the sector. For this reason, it does not appear appropriate to report on the code. The members reserve the right to reconsider this opinion at such time as the ISAC prepares its final report under Section 135 (e) (1).

2.J. SUBSIDIES

ISAC 22 substantially supports the Subsidies/CVD Code, and except as noted below, believes that the agreement "Promotes the economic interest of the United States" and "provides for equity and reciprocity within the sector."

SUMMARY

The Government Subsidy Code as it currently stands would help combat foreign government subsidy of exports in:

1. Home Markets
2. Import Substitution
3. Third Countries

Previously, we have had no protection against Import Substitution (a foreign government subsidy of products for its home market) or against foreign government subsidies of exports to a third country. The Code would give us an opportunity to present violations of either to an International Panel that would have to reach a decision within 120 days.

COMMENTS

The Code's provision for Home Market protection against foreign government subsidy requires an injury test. On the other hand, under the Code if an industry files a complaint a tentative duty can be imposed.

2 J. SUBSIDIES

ISAC 22 objected to the following government subsidies and asked for a remedy.

1. Value added tax rebate on exports and other harder tax adjustments
2. Government Subsidy of R&D-
3. Export credits and guarantees-
4. Subsidy of nong Term Financing of Fxports-

Although we consider VAT rebate to be important, we understand that it is not negotiable at this time.

As the language of the Code is quite broad, we are dependent upon building a case history. If the panels are heavily weighted with LDC's for example when an LDC is being charged with Subsidy, it may be difficult to get a favorable judgement.

RECOMMENDATION

We recommend that Government Subsidy of R&D which is in support of products primarily for export and government subsidy of preferential financing of exports be included in the "List of Fxport Subsidies" that are prc ited.

We also recommend tightening the language in order that panel decisions be judicial in nature. In case of irreconcilable dispute, the rules of orderly fact-finding and arbitration should apply.

We have not yet seen the Domestic Implementing Code and, therefore, must hold final judgment until it is available.

3. TARIFFS

With a few exceptions, ISAC 22 continues to believe that nontariff measures constitute greater barriers to trade than do tariffs.

Its members have reviewed the offers of the U. S. and its major trading partners and concurs with those changes except for the following items:

-- Semiconductors. The fact that the EC has failed to reduce its 17% tariff is unacceptable for the long term. The U. S. must pursue this bilaterally on a high priority basis.

-- Mobile Radio Transmitter-Receivers. The ISAC specifically asked that the U. S. duty be retained at 6%. It has been reduced the maximum amount to 2.4%.

-- Staging. U. S. reduction should be staged in exactly the same scale and proportionally to the net effective applied rates of our trading partners.

EC-EFTA RULES OF ORIGIN

ISAC 22 devoted a considerable portion of its initial Advisory Report to the EC-EFTA Rules of Origina which discriminate against all non-European products -- especially semiconductors.

The alternate rules will bring substantial relief to U. S. exporters of parts as the Europeans equipment manufacturers may have up to 30% of the value of his product in non-origin parts.

The 30% alternate rule which will be applicable to semiconductors remains highly discriminatory and is unsatisfactory. The protectionist measures of high duty rates and discriminatory rules of origin are tantamont to subsidization of the semiconductor industry within EEC. If the European semiconductor industry is to grow and compare favorably with the rest of the world, it must do so on a fully competitive basis. Further discussions toward the objective of a 50% rather than a 30% rule of origin are urgently recommended.

U.S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE REPORT ON RAILROAD EQUIPMENT AND MISCELLANEOUS TRANSPORTATION EQUIPMENT FOR MULTILATERAL TRADE NEGOTIATIONS (ISAC #23)

April 20, 1979

John W. Porter, Chairman
ISAC #23

1 - NTM CODES, TARIFF PROPOSALS. OVERVIEW AND LEGISLATION RECOMMENDATIONS

ISAC #23 Committee understanding of the various Nontariff Codes is reflected under Section 2 of this report, and as such they are endorsed to the Congress with the following comments for Implementation Legislation.

(a) Whilst we appreciate the difficulties involved in the task of negotiating the various Codes and interaction thereof, so as to ensure viable international documentation, the omissions and lack of specific language in regard to the preferences being afforded Less Developed Countries, together with the absence of a clean outline of the graduation process for Industries of such Less Developed Countries, are considered evasive and therefore potentially dangerous to United States Industry. Therefore, it is strongly recommended that: U.S. Implementation Legislation should contain very precise and clear language as to the monitoring process to be employed by the responsible U.S. Government Agency for L.D.C.'s preferences, together with actions to be taken by such Agency upon the claim of injury by a U.S. industry, together with strict timetables to prevent inefficiencies or delays in the review process to correct any unfair actions that may arise.

OR

(b) In the event that the foregoing is considered impractical at this juncture, we recommend that legislation provide for a requirement on the U.S. Government agency charged with the administration and monitoring of these Nontariff Codes to present to Congress within 12 months, documentation outlining the procedures and measurements to be employed in regard to graduation of LDC's on an Industry by Industry basis. In addition official publication on a timely basis should be made by such U.S. agency of those countries to be treated as LDC's together with their Industries so graduated.

We strongly recommend that the Implementing Legislation not disturb the current status of the U.S. DISC.

(c) It is our considered opinion that any Legislation should provide for clear and efficient administration and vigorous enforcement of all codes viz --

Customs Valuation
Framework (GATT)
Government Procurement
Licensing
Safeguards
Standards
Subsidies and Countervailing Duties

(d) ISAC 23 is greatly concerned with the interpretation and differences in the classifications of BTN and TSUS commodity descriptions and item numbers. It is considered axiomatic that any valuation system for customs purposes have broad International acceptance. To this end there must be a readily identifiable classification of like items between countries. The present classifications, which are open to interpretation, leave much to be desired and can present loopholes or discrimination. We recommend, therefore, that any implementing legislation provide for harmonization between the two systems - i.e., BTN and TSUS -- within a period of 18 (eighteen) months.

ISAC 23 has based this Report on the Codes, Documents, and memorandum received by its members through April 18, 1979, and dated through April 6, 1979. ISAC 23 reserves the right to submit additional comments on Nontariff Codes and Tariff matters if its members receive information or materials in the future from the STR or Commerce Staff that make any material change in the documents and/or information received to date.

Finally, we wish to acknowledge the efforts, guidance and counsel offered the Committee by the fine STR and Commerce Staff members who have been untiring and patient throughout the many months of dealing with Industry Sector Advisors, and hope for provision in the legislation by Congress for suitable continuing dialogue.

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2. NONTARIFF CODES

2.A AIRCRAFT

The Committee has reviewed the issue of Aircraft. The matters covered by the Code are not of significant interest to ISAC 23. For this reason, it does not appear appropriate for ISAC 23 to report on the Code.

2. NONTARIFF CODES

2.B. COUNTERFEITING

The Committee has reviewed the issue of Commercial Counterfeiting. The matters covered by the Code are not of significant interest to ISAC #23. For this reason, it does not appear appropriate for ISAC #23 to report on the Code.

2.C. CUSTOMS VALUATION

Summary of Understanding:

The code sets out five methods--one primary and four secondary--for determining customs value. The first is to be used in all cases unless a valid customs value cannot be found. In such cases the second method is used. If this fails the third--then the fourth and/or fifth method. If it is impossible to determine value under any of the five methods, value will be determined using reasonable means consistent with the principles of the Code and Article VII of the GATT.

1. The primary method specifies that customs value shall be the transactions value of the imported goods, e.g., actual price paid or payable plus certain costs, charges and expenses incurred with respect to the goods. Examples are commissions, brokerage fees, container costs, royalties and tangible assists. Assists are assets furnished at no cost or at reduced costs, such as components, tools, dies, designs, art work, etc.

2. The second method applies the customs value as that of the transaction value of identical goods for export to the same country at or about the same time.

3. The third method is the same as two above except the value is applied to similar goods.

2.C. CUSTOMS VALUATION

4. The fourth method bases customs value on the unit value at which identical or similar goods are resold. From the price, deductions are made for such elements as profit, general expenses, cost of transportation, insurance, etc. Thus, this value starts with the resale price and deducts all elements of value that have been added after the goods have been imported.

5. The fifth method is based on computed value which consists of material and manufacturing costs, profits and expenses. This method relies heavily on the cooperation of producers of the imported goods.

Comments:

ISAC 23 supports the "TRANSACTION VALUE" concept, recognizing that there are difficulties in identifying that value, but are concerned that the problem of classification has not been addressed in the code. We recommend a strong effort be made by the U.S. Government to address this matter through an appropriate international body.

2.C. CUSTOMS VALUATION

4. The fourth method bases customs value on the unit value at which identical or similar goods are resold. From the price, deductions are made for such elements as profit, general expenses, cost of transportation, insurance, etc. Thus, this value starts with the resale price and deducts all elements of value that have been added after the goods have been imported.

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Comments:

ISAC 23 supports the "TRANSACTION VALUE" concept, recognizing that there are difficulties in identifying that value, but are concerned that the problem of classification has not been addressed in the code. We recommend a strong effort be made by the U.S. Government to address this matter through an appropriate international body.

2.D. FRAMEWORK

Summary of Understanding:

A. Enabling Clause/Reciprocity/Graduation

Enabling Clause. Provides a legal basis by which DC's may extend differential and more favorable treatment to LDC's on a non-MFN basis. The agreement does not obligate DC's to extend this treatment. It is explicitly stated that special treatment should be provided so as to respond to countries development needs and not to adversely affect trade flows. It is also stated that special measures should be modified as development needs of the LD 's change.

Reciprocity. The agreement contains recognition by DC's that they do not expect full reciprocity (that is, contributions inconsistent with development needs) from LDCs for commitments made to LDCs by DC's in future trade negotiations.

Graduation. The agreement contains so-called graduation provisions whereby LDC's would accept greater obligations under the GATT as their economic situations improve, but the provisions are considered vague and inconclusive and thereby offer opportunities for abuse.

B. Trade Measures Taken for Balance of Payments Purposes

Preamble

The preamble of this agreement contains a number of important points, including (1) recognition that trade measures

are generally inefficient means of dealing with balance of payments problems, (2) recognition that price measures such as surcharges have been used for balance of payments purposes, (3) reaffirmation that such measures should not be used in order to protect a particular industry or sector, and (4) recognition that DC's should avoid the use of trade measures for balance of payments purposes.

Use of Surcharges and Other "Price" Measures. Signatories have pledged when taking restrictive import measures to give preference to measures which have the least disruptive effects on trade.

Notification, Consultation. The agreement contains explicit mention of the obligation of contracting parties to notify their use of import measures taken for balance of payments purposes. Furthermore, all measures will be subject to consultation.

C. Safeguard Action for Development Purposes

This agreement broadens the provisions in Article XVIII of the GATT which provides the LDC's may restrict their imports in order to promote economic development. The agreement recognizes that the use of such safeguard measures to promote development of new or modification or extension of existing production structures may be necessary for

2.D. FRAMEWORK

LDC's to achieve their economic development goals. Furthermore, the agreement gives LDC's the right to take such measures on an immediate but provisional basis in emergency situations following notification of the action.

D. Dispute Settlement

The dispute settlement text seeks to ensure an effective and objective process for resolving all GATT-related disputes.

E. Understanding Regarding Export Control Measures

Contracting parties have recognized in the agreement on export controls that existing rules in the General Agreement which apply to both export and import restraints should be assessed on a priority basis in the context of the existing international trading system in the post-MTN period.

Comments:

A. ISAC 23 considers the Framework code to be the major factor for implementation of the other codes.

B. ISAC 23 accepts the final Framework code as signed by the United States and its major trading partners -- with the understanding that its recommendations concerning the treatment of "Graduation" in the implementing legislation will be given proper consideration.

2.E. GOVERNMENT PROCUREMENT CODE

The Government procurement code is a detailed and comprehensive document setting out specific rules and procedures to be followed in purchasing practices. The Code is based on the principles of national treatment (Code signatories accorded same treatment as domestic products and suppliers) and non-discrimination (any benefit accorded one signatory will be given to all other signatories). Benefits and obligations under the Code will accrue only to countries which subscribe to the Code.

Comments:

Rules and procedures as set forth by the current draft of the Government Procurement Code, if adequately (vigorously) enforced, should satisfy the needs and concerns of railroad equipment and miscellaneous transportation equipment suppliers.

2.F. IMPORT LICENSING

Summary of Understanding:

ISAC 23 believes that products traded are frequently subject to needless bureaucratic delays as a result of cumbersome import licensing systems. As it relates to Less Developed Countries we believe the abuses are widespread. We support the concept that a simplification of procedures on import licensing is needed.

The code deals with the administration of import licensing procedures, rather than with the existence or extent of quantitative import restrictions. The general provisions formula provides for rules governing procedures for submission of application, and for simplification of procedures. It provides that:

1. No application is to be refused for minor documentation errors.
2. They are not to be refused for minor variations in value, quantity or weight.
3. Automatic licensing systems (those granted freely) will be dropped when the reason for their introduction no longer exists. They are to be granted immediately--or within 10 working days.
4. Non-automatic licensing provisions require that the governments publish information on quotas, and they must not prevent any person, firm or institution to apply.

2.F. IMPORT LICENSING

Comments:

ISAC 23 regrets that the code does not address the problem of quantitative restrictions that inhibit the expansion of trade among nations.

2.G. SAFEGUARDS

Summary of Understanding:

Import Safeguards is one of the most important and controversial codes. "Safeguards" include, but are not limited to, such actions as temporary import restrictions intended to give a domestic industry in an importing country time to adjust to world trade competition.

GATT Article XIX already provides an international procedure for handling cases where it is deemed necessary to restrict imports of particular products in order to afford domestic producers temporary relief from injurious import competition--but Article XIX has not been used principally because of retaliatory provisions.

Accordingly, in Section 121(a)(2) of the Trade Act of 1974 the United States Congress instructed the President to seek a major revision of Article XIX in order to form a truly international safeguard procedures which takes into account all forms of import restraints that countries can and will use in response to injurious competition or the threat of such competition.

It is ISAC 23's understanding that the draft code on Safeguards is intended to carry out the instructions of the United States Congress as contained in Section 121(a)(2) of the Trade Act of 1974.

2.G. SAFEGUARDS

Comments:

ISAC 23 feels that the Safeguards Code is of substantial economic importance to the United States, and should be finalized and signed by the United States, its major trading partners, and the primary LDC's, as soon as possible.

2.H. STANDARDS

Summary of Understanding:

In developing and enforcing technical standards and regulations, including testing, marking, labelling and certification requirements, the United States and its trading partners will assume obligations under this Code to bring government standards into line with internationally accepted rules.

The code stresses that governments will ensure that their technical standards and/or regulations are not applied in such a way as to create obstacles to international trade. In addition, the code provides that imports "shall be accorded treatment no less favorable" than domestic products subject to the same technical standards, with the understanding that "special and differential treatment" must be allowed for developing countries.

Comment:

ISAC 23 supports the provisions of the code on standards.

2. NONTARIFF CODES

2.I. STEEL

The Committee has reviewed the issue of steel. The matters covered by the Code are not of significant interest to ISAC #23. For this reason, it does not appear appropriate for ISAC #23 to report on the Code.

2.J. SUBSIDIES

The Code spells out rules on how the U.S. and other nations should deal with all future problems resulting from the use of direct and indirect government subsidies.

It is noted that the Code does not attempt to ban the use of subsidies entirely but provides that each country will "seek to avoid" injuring other nations and their industries through the use of export bounties and other types of subsidies.

The Code establishes detailed procedures for conciliation dispute settlement and authorized countermeasures when one country decides such measures are necessary.

In imposing countervailing duties to offset foreign government subsidies, the draft requires all countries to consider "simultaneously" the technical issues involved in foreign government subsidies and their injury to domestic industries.

The Code also specifies that the penalty (countervailing duties) will not be imposed in an amount in excess of the subsidy, might be withheld if agreement is reached to eliminate the subsidy, and if imposed, will remain in force only so long as necessary to counteract the subsidy.

ISAC #23 was informed that the code excludes the U.S. DISC as an item subject to international negotiations.

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2.J. SUBSIDIES

Comments:

ISAC 23 feels that the Code covering Subsidies and Countervailing Measures will be of substantial economic importance to the United States, and endorses the Code and the implementation proposal on the agreement on antidumping.

3. Tariff Agreements

ISAC 23 accepts the tariff agreements signed to date, subject to the following request (item 1 below), and comments, with the understanding that Tariff Agreements have not yet been concluded and/or signed between the U.S. and some of its trading partners.

1. The United States Railroad Equipment Industry can not accept the current Canadian offer on railroad equipment.

Since Canada has revised its original tariff reduction offers for railroad equipment (TSUS #690-BTN #86) as a result of the United States Surface Transportation Act of 1978, it is requested that t United States withdraw its offers to Canada to reduce tariffs on railroad equipment (TSUS #690).

2. The United States Bicycle Manufacturing Industry is import-sensitive, and as a result the following TSUS items have been placed on the Exception List, as per the Tariff Agreements signed to date: 732.06, 732.10, 732.12, 732.18, 732.24 and 732.26.

The above items should remain on the U.S. Exception List relative to all Tariff Agreements still being negotiated, or as yet not signed.

As concerns the offers made by our trading partners, and agreed to by the United States - the bicycle manufacturers accept the offers on complete bicycles and bicycle parts made

(and accepted) by Japan and Canada. However, it is noted that no substantial progress has been made in lowering the high tariffs on complete bicycles maintained by the rest of our major trading partners - with specific reference to the EC - thereby keeping pressure on the U.S. market, which has the lowest tariffs on complete bicycles, except for Japan.

3. The Domestic Bicycle Parts Manufacturers are dissatisfied with the offers made for their product. They assert they have already incurred serious injury from imports and greater injury will result because U.S. negotiators have reduced the tariffs on bicycle parts.

U.S. DEPARTMENT OF COMMERCE

and the

OFFICE OF THE SPECIAL REPRESENTATIVE
FOR TRADE NEGOTIATIONS

INDUSTRY SECTOR ADVISORY COMMITTEE
ON AEROSPACE EQUIPMENT FOR
MULTILATERAL TRADE NEGOTIATIONS
(ISAC #24)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS

May 7, 1979

George L. Prill
Chairman, ISAC #24

1.A. OVERALL

The aircraft industry supports the package of GATT tariff reductions and non-tariff measure agreements accepted in Geneva on April 12, 1979. We believe adoption of the Tokyo Round MTN package is in the best interests of the United States. On balance, it represents reasonable trade reciprocity with our major trading partners and provides the best assurance for continued development of important U.S. trade interests.

The Agreement on Trade in Civil Aircraft is an integral part of the MTN package. It recognizes the importance and the unique characteristics of the world's civil aircraft industry. Many of the foreign manufacturers, airlines and users of general aviation products are government owned. The international trade problems faced by the industry are thus as unique as the solutions needed to deal with them. This agreement is a major step towards protecting U.S. trade interests and promoting fair trade opportunities worldwide.

Eliminating tariffs on civil aircraft encourages free trade. Ratification of the Agreement will demonstrate the willingness of a U.S. high technology industry to open the market to foreign competition so long as foreign markets are open to U.S. manufacturers.

The proposed non-tariff agreements, other than the Aircraft Agreement, are of varying importance to our industry. The Agreements on Subsidies/Countervailing Measures and on Technical Barriers to Trade are essential; others such as the Agreement on Commercial Counterfeiting are of less specific importance. It is the view of the ISAC #24, however, that these nontariff agreements interrelate and should be approved as a package.

1.A. (continued)

The ISAC also believes that U.S. legislation to implement the Tokyo Round of agreements and the resolve of the U.S. Government to defend and protect U.S. interests under the agreements are just as important as the MTN package itself. For that reason we should like to reserve the option to submit addenda if necessary, as the Administration's proposals on implementation are made available. In addition, it may be appropriate to enlarge upon the proposals on how best industry can work together with the U.S. Government to promote our mutual objectives and resolve potential disputes with our trading partners.

1.B. BACKGROUND

The aircraft industry has emphasized its uniqueness in international trade. U.S. civil aircraft exports (including aircraft engines and aircraft parts) were valued at better than $5 billion in 1977, and exceeded $7 billion for 1978. Since comparable imports were valued at less than $1 billion, civil aircraft international trade makes a significant net contribution to the nation's balance of trade.

The package of MTN agreements, including the Agreement on Trade in Civil Aircraft, will provide the following benefits for the U.S. civil aircraft industry and labor force:

- Adherence to the nontariff agreements, which encourage fair trade opportunities, will expand worldwide trade in all sectors and thereby increase the demand for travel and air freight services.
  - -- The demand for aircraft will increase worldwide, benefitting U.S. and foreign manufacturers.
  - -- Business opportunities for U.S. aircraft manufacturers will increase as will demand for components from the thousands of U.S. suppliers.
- Better access to domestic markets in major aircraft producing countries
  - -- All major aircraft producing countries (being signatories to the Aircraft Agreement) are eliminating tariffs on civil aircraft, engines and on most parts. Tariffs cannot be reimposed (e.g., to protect developing aircraft industries) unless compensating trade concessions are made. Reimposition on tariffs by signatory nations is considered highly unlikely. However, in the absence of an MTN agreement it is possible that the European and Japanese tariffs on large transport aircraft, which have been waived, may be reimposed.
  - -- Aircraft Agreement signatories may no longer require (or exert unreasonable pressure to assure) that their national airlines and manufacturers procure nationally

1.B. (cont'd.)

produced aircraft or components. In the past, such policies have been a far greater barrier to U.S. exports than have the tariffs imposed.

-- Technical standards cannot be used to discriminate against imports, a particularly important nontariff discipline in this high technology sector.

-- U.S. component manufacturers will have better access to subcontracts of foreign airframe and engine manufacturers in the absence of tariffs and "buy national" policies. In particular, they will be able to compete on the same duty-free basis as European Common Market component manufacturers do now for EC subcontracts.

- Better assurance of competitive access to other foreign markets

  -- Foreign competitors cannot offer economic, political or other inducements nor threaten sanctions in connection with aircraft procurement competitions. In the past such non-commercial concessions have caused U.S. companies to lose export orders.

  -- Export subsidies, including subsidies in the form of export credit financing, are prohibited.

  -- Domestic subsidies which adversely affect U.S. competitive interests in these markets are to be avoided (and if they are not, the U.S. has a forum in which to raise the allegation of an unfair trade practice and to seek redress).

  -- An example of desired and internationally agreed civil aircraft trade practices (such as a prohibition on import restrictions) is established, and nonsignatory governments will be encouraged to adhere to such trade practices.

- Fair competition in the U.S. domestic market

  -- While U.S. tariffs are eliminated, they have been relatively small in the past, and not an effective barrier to imports.

  -- Export subsidies (for example, unfair export credit terms or exchange rate guarantees which are not on an economically sound basis) are prohibited.

1.B. (cont'd.)

-- The possible adverse trade effects of domestic subsidy practices by foreign governments which cause injury to the U.S. civil aircraft industry, whether in the United States or in third country markets, are more tightly defined. Injury to U.S. industry in the U.S. market is subject to well defined countervailing duty procedures. Injury to U.S. industry in third world markets will be redressed by a dispute settlement mechanism according to a pre-established and tightly defined timetable.

-- The U.S. tax deferral provisions of the DISC are not impaired by the Agreement on Subsidies nor the Aircraft Agreement.

More U.S. job opportunities

-- Foreign governments can no longer require that U.S. airframe and engine manufacturers grant "mandatory subcontracting" business to their national component manufacturers to offset, in whole or in part, the purchase cost of civil aircraft. Rather, U.S. airframe and engine manufacturers are to be free to base their subcontracting decisions solely on a competitive price, quality, and delivery basis.

-- A more cooperative trade environment for civil aircraft lessens the possibility of a major trade confrontation, which could weaken the demand for U.S. aircraft. This provides better security for the more than 200,000 U.S. aerospace workers whose jobs are directly dependent upon exports. With strong U.S. participation in expanding world markets, more U.S. jobs will be directly supported by civil aircraft exports.

2.A. AIRCRAFT AGREEMENT

The Agreement on Trade in Civil Aircraft provides an international framework governing conduct of trade among the signatory nations. It represents a reciprocal commitment to fair trade in civil aircraft; it does not provide a "won" or "lost" situation. The U.S. civil aircraft industry believes the agreement, as part of the MTN package, should be implemented.

Our aircraft manufacturing industry has taken the position that "fair trade" in aircraft and related equipment will benefit the U.S. industry. The Aircraft Agreement should serve in large measure to create such a climate by bringing trade distorting tariff and non-tariff measures under scrutiny and, to the extent possible, under control. The Agreement and the corresponding U.S. implementing legislation should provide procedures by which the U.S. manufacturers may challenge practices deemed to be in violation of the Agreement.

To date, only a limited number of countries -- but most importantly including Canada, the E.C., Japan, Sweden and the United States -- have accepted the opportunity to sign the Aircraft Agreement. The industry urges continuing efforts by the Administration to encourage other aircraft manufacturing nations to sign. Towards this end, the U.S. industry believes that the benefits accruing to the signatories should be restricted to the signatories.

By promoting a free and fair trade atmosphere and by avoiding trade confrontations, the Agreement will help bolster the competitiveness of U.S. products and maintain efficiency in an industry particularly important to the national security.

2.A. (cont'd.)

The Agreement benefits:

- U.S. airframe and engine manufacturers (for both commercial and general aviation aircraft) by providing strong disciplines on particularly troublesome non-tariff trade barriers and by assuring that they will not have to compete unfairly against national treasuries of other nations.

- U.S. civil aircraft parts manufacturers by establishing a climate more favorable to their competing for foreign airframe and engine subcontracts and by providing that foreign governments cannot require offset procurement subcontracts as a condition of sale.

- U.S. aerospace labor by providing a more favorable environment for U.S. civil aircraft exports -- and a restraint on possible future use of European and Japanese protectionist tariffs, as their industries develop products competitive with U.S. ones.

- U.S. airlines (and hence air travelers) by providing strong competition, on a commercial basis, which should result in higher quality, lower priced aircraft.

- Overall U.S. economic interests by opening up export opportunities for the aerospace sector, the largest net contributor to the U.S. industrial trade balance.

2.A. (cont'd.)

For the record, however, it should be noted that the Agreement is not perfect. For example, under the presently negotiated arrangement, there is no tariff incentive for non-signatories to adhere to the Aircraft Agreement.

The ISAC's objectives regarding zero duty on parts of civil aircraft were two-fold: (1) to achieve equality of treatment between the United States and its trading partners and (2) to include duty free coverage of the maximum possible number of parts. These objectives have, to a large degree, been met; however many bona fide aircraft parts are currently excluded. The ISAC hopes that in future revisions of the Agreement the duty-free parts coverage will be made more complete.

While the Aircraft Agreement addresses many of the non-tariff measures of concern to the industry and takes the first major step towards bringing non-tariff barriers (NTBs) under control on an international basis, the NTB restrictions are complex and clearly open to a variety of interpretations.

The enabling legislation should include a method of monitoring compliance and responding to actions resulting from the Agreement. Only with prompt recognition of possible violation of the Agreement can action be taken to resolve such areas of conflict, thereby building "case law" to flesh out the international framework for fair trade contained in the Aircraft Agreement. Industry participation in this process is essential.

2.B. COMMERCIAL COUNTERFEITING

ISAC #24 supports the draft Agreement on Commercial Counterfeiting in its present form. However, as the Agreement is still being negotiated, our endorsement is preliminary and subject to change pending the final outcome of negotiations. Since that Agreement is designed to deal with the counterfeiting of trademark items, it is of only general interest to the civil aircraft industry.

A far more serious problem for our industry is the detection and elimination of bogus parts which have been manufactured to standards lower than those used in producing the original parts. It is not feasible, however, to detect and intercept such parts through action by the U.S. Customs Service. The industry is working with industries of other countries that have the same problem and with appropriate airworthiness authorities to keep this matter under control.

2.C. CUSTOMS VALUATION

ISAC #24 supports the Agreement on Customs Valuation; it should serve as the basis of a general streamlining of border formalities. The industry should indirectly benefit from simplified customs procedures because of the stimulative effect expected on the development of air cargo. Nothing defeats the benefit of quickly moving high-value cargo by air as completely as do time-consuming customs formalities.

The industry proposed the elimination from present U.S. Customs practice of the "assist" concept (whereby the U.S. Customs Service imposes a pro rata share of the engineering test and tooling costs of parts and components developed in the United States, but which are manufactured overseas and then imported). Because of the elimination of duties on aircraft and engines, and on most parts, the "assist" concept will no longer impact the U.S. civil aircraft industry. However, the ISAC still feels elimination of the "assist" concept would be in the best interests of the United States.

2.D. REFORM OF THE INTERNATIONAL TRADING SYSTEM (FRAMEWORK)

In the opinion of ISAC #24, the Agreement on GATT Framework provides a necessary mechanism to improve further the international trading system. This MTN round has been an important step toward developing a system for regulating, on a fair basis, the world's cross-border business. However, provisions for clarification and expansion of the system to ensure the continued growth in international trade are needed. This need is particularly important in the high-technology industries, such as civil aircraft, where new programs, business associations and methods of conducting trade are continually being

2.D. (cont'd.)

developed. The dispute settlement mechanism and the relationships of developing countries to the aircraft industry are of importance.

2.E. GOVERNMENT PROCUREMENT

The Agreement on Government Procurement will not apply to military procurement nor to the purchases of civil aircraft, engines or parts by government-owned airlines. However, some markets previously closed to U.S. high-technology industries will be opened by the Agreement.

The Entities listed in the annexes of the Agreement on Government Procurement are a first step toward opening up government controlled markets. Although the U.S. should hold firm for equity in these lists, it should encourage greater coverage and assure that U.S. industry is obtaining fair market entry.

The Aircraft Agreement contains language on government-directed procurements which, it is hoped, will eliminate instances of governments directing or pressuring their airlines -- or other users of civil aircraft or parts -- to purchase products from any particular source. These provisions go beyond the provisions of the Government Procurement Agreement, apply to all government entities and are applicable regardless of the dollar value of the contract.

2.F. LICENSING

The Agreement on licensing will have little impact on the aircraft industry, but is deemed to be an improvement to the current international practices in the area of licensing. The Agreement deals with the administration of import licensing procedures rather than with the existence or extent of quantitative import restrictions. The ISAC #24 is in favor of easement of import licensing procedures and obstructions.

2.G. SAFEGUARDS

The proposed Agreement on Safeguards is still being negotiated. ISAC #24 reserves its position, but generally endorses an agreement on safeguards.

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2.H. TECHNICAL BARRIERS TO TRADE (STANDARDS)

In the opinion of ISAC #24 (Aircraft), the code on Technical Barriers is a good and fair one, by virtue of proposing the following notable innovations:

1. Transparency (publication of standards and rules of certification systems, establishment of a centralized data base) which would permit U.S. suggestions and inputs during the formulation and application of new standards and certification systems.

2. Provision for signatories (countries and central government bodies, including the European Economic Community) to use best efforts to achieve compliance with the code by regional, state, local and private organizations.

3. Establishment of specific dispute settlement procedures.

4. Requirements for performance standards rather than design standards.

5. Encouragement of the adoption of voluntary international standards.

Permissible exceptions to compliance with the code for reasons such as national security, health, safety, environment, climate and geography seem unobjectionable in principle, as the transparency provisions of the code would allow the legitimacy of such exceptions to be scrutinized.

Adoption of this Agreement would be a major step forward in encouraging international standards satisfactory to the U.S. industry. In addition, as the Aircraft Agreement expands coverage of the code to include aircraft certification requirement and specifications on operating and maintenance procedures, enforcement of the Agreement will help U.S. aerospace exports.

2.H. (cont'd.)

The U.S. aircraft industry develops a large number of standards used world wide but also builds its products in accordance with certification rules and standards established by other countries. The foreign competition does likewise. The industry must continually strive for international agreement especially since certification and standardization problems in the past have presented trade barriers to U.S. aircraft exports.

2.J. SUBSIDIES AND COUNTERVAILING DUTIES

ISAC #24 endorses the Agreement on Subsidies and Countervailing Measures, while recognizing that that Agreement is complex and will certainly lead to much discussion. It provides an outright prohibition against export subsidies, encourages discussion of and transparency of domestic subsidies, and provides for protection against the effect of government subsidies on exports in third country markets -- all of benefit to the U.S. aircraft industry. However, the difficulties of differentiating among "subsidies," "loans" and "investments" in government-owned industries are particularly acute in the civil aircraft sector, as is the problem of determining whether the use of government research and development funds is a subsidy of a specific program or a legitimate government investment in furthering the state-of-the-art of aeronautics. Such concerns are addressed in the Aircraft Agreement, but questions can only be resolved by timely and candid discussions.

The MTN Subsidies Agreement is a good, but only a first, step in eliminating trade distorting subsidies. It is not a completed task. Of particular note, the major trading nations must develop a way of dealing effectively with the issue of subsidy provided through export credits. The approach through the OECD has not been successful to date. The export credit issue has caused concern in the Congress and is one that must be addressed in the near future.

An U.S. aircraft industry concern is the language of the U.S. implementing legislation. Rather than developing a "hair trigger" response to alleged subsidies, the ISAC believes candor and judgment are called for because of the complex issues involved and the potential for retaliation.

2.K. ORGANIZATION FOR IMPLEMENTION AND ADMINISTRATION OF THE AIRCRAFT AGREEMENT

A. U.S. Government

The benefits to the United States of the Agreement on Trade in Civil Aircraft will be a direct function of the effectiveness of the organization established to administer the Agreement. The same holds true, of course, regarding all the Agreements in the MTN package. Actions taken during calendar year 1980 will be critically important to effective initial implementation of the Agreements.

For these reasons, the organization established to implement the Agreement must have adequate stature, authority, and competence to execute the program. The concept has been clearly recognized by the Congress, as evidenced by the introduction of S.377 by Senator Ribicoff and Senator Roth and of S.891 introduced by Senator Robert Byrd, both of which would establish a new cabinet-level Department of International Trade and Investment or of a Department of Trade.

ISAC #24 strongly supports the concept of an Agency which has the authority and capability to monitor performance under the Agreement, to take action in the event of violations, and to negotiate improvements. At the present time, this should be the Office of the Special Trade Representative. The work of Ambassador Strauss and his group in coordinating the government departments and agencies and in taking advantage of the Industry Sector Advisory Committees has proven the wisdom of assigning such complicated tasks to one properly sized capable team under the leadership of someone who is not only capable but is personally close to the President and to other senior policy makers in both the Administration and the Congress.

B. U.S. Industry

ISAC #24 strongly favors the continuation of an industry advisory body to support and supplement the U.S. Government. The other subject that we would like to stress is the need for the implementing legislation to set up a strong, flexible system for industry participation in the monitoring, enforcing, consulting and amending process. If these agreements are to work, we need strong, authorized industry participation at all times and at all levels. Our industry believes we should participate primarily as a sector, but also in the cross-sector discussions on other, more general Agreements.

The other Signatories to the Aircraft Agreement know our industry and fully expect it to be a very active partner with the U.S. Government in the follow-up process. In the same way, we know their aircraft industries. We respect them, and we are certain that representatives of their industries will be integral parts of their national teams.

ANNEX A

Proposed Future Improvement to the Aircraft Agreement

A. U.S. industry has urged the U.S. Government to obtain adherence to the Aircraft Agreement by these nations. The fact that Most Favored Nation (MFN) tariff treatment is accorded to all GATT members means that there is no tariff incentive to sign the Aircraft Agreement. In fact, a disincentive exists in that non-signatories would benefit from zero tariffs while maintaining import tariff protection for their own internal markets. U.S. industry urges that STR develop a method by which non-signatories will be motivated to join the Aircraft Agreement. Possible methods include a two-tier U.S. duty rate or preferable strong non-tariff measures which render the U.S. domest market less accessible to non-signatories.

The ISAC suggests that the ability to offer conditional MFN treatment of tariff concessions may now be appropriate and, in fact, could stregthen, rather than weaken, the GATT. Changes in the GATT may be appropriate so that only signatories to specific agreements which promote fair trade would reap the benefits of such agreements.

B. The list of civil aircraft parts to be afforded duty-free treatment under the Aircraft Agreement is incomplete. The ISAC believes that the fullest application of the "end use" criteria should be achieved through future negotiation efforts with our trading partners.

C. There is a need to identify aircraft, engine and parts coverage under the CCCN, the TSUSA and the Canadian tariff schedules so that broad and equivalent reductions in tariffs may be achieved by all signatories. The problems encountered emphasize the need to modernize and standardize coverage.

Report to the President, to Congress,
and to the Special Representative for
Trade Negotiations

Advisory Opinion Regarding Whether Agreements Resulting from the Multilateral Trade Negotiations Provide for Equity and Reciprocity Within the Automotive Equipment Sector

Submitted by the Automotive Equipment
Industry Sector Advisory Committee

Under Public Law 93-618
(88 STAT. 1997)
The Trade Act of 1974,
Section 135 (e)(1)

PL 93-618 (88 STAT. 1997) Section 135 (d)(1)

The Advisory Committee for Trade Negotiations, each appropriate policy advisory committee, and each sector advisory committee, if the sector which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under this Act, to provide to the President, to Congress, and to the Special Representative for Trade Negotiations a report on such agreement. The report of the Advisory Committee for Trade Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and the report of the appropriate sector committee shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector.

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SUMMARY

It is the assessment of the Automotive Industry Sector Advisory Committee that the agreements concluded in the Multilateral Trade Negotiations constitute some progress toward equity and reciprocity within the automotive sector. However, true reciprocity in terms of equality of market access has not been achieved. The U.S. automotive market remains the most open of any industrialized automotive producing country.

While disappointed that more progress toward true reciprocity was not achieved, it is our assessment that the agreements negotiated in the MTN contain the promise of more benefits than costs, and that on balance the agreements will confer a modest net positive effect on the U.S. automotive equipment industry.

Subsidies

I. Trade Issue Affecting Automotive Equipment Producers

Governments are becoming increasingly involved in the actual conduct of commercial enterprise. Because of the intrinsic importance of transportation and because of the size and economic and social impact of the automotive equipment industry in many countries, automotive production and trade decisions outside the United States have increasingly been subject to the dictates of government social, economic, and political considerations and less to the forces of market

Government Ownership of Foreign Motor Vehicle Manufacturers

Country	Company	Extent of Government Ownership
France	Renault	100%
Italy	Alfa Romeo	100%
United Kingdom	BL (formerly British Leyland)	95%
West Germany	Volkswagen	40% (of which 20% is Federal government and 2 local
Spain	SEAT (joint venture with Fiat)	34.78%
Spain	ENASA (trucks)	66.6%
Mexico	DINA (trucks)	92%
Brazil	Fiat	45.3% (local governmer
Soviet Union	AZLK, VAZ, ZIL, ZAZ	100%

competition. The forms and depth of government participation vary greatly from country to country and from case to case. This involvement ranges from governmental subsidization of essentially privately held and managed firms by fiscal, industrial, financial and regional policies, through shared ownership between the government and private sector, to direct government ownership and management of nationalized industry.

The participation of government in commercial enterprise is almost always motivated by considerations other than profit. The objective may be maintaining or expanding employment, or implementing government mandated changes in the structure of an economy or society. Government participation almost inevitably leads to a distortion of the economic forces and financial parameters which determine producers' costs and prices, and thus creates the potential for serious distortions of trade flows. U.S. automotive equipment producers could be placed at a serious disadvantage in competing with foreign firms backed by the taxing powers of their governments. This situation can only result in a growing number of problems and controversies in international trade, particularly in times of recession.

II. Impact of the Proposed Code on Issue and Automotive Equipment Producers

Benefits

(1) A more explicit prohibition against export subsidies than that currently contained in the GATT is defined. Imports into the United States that have benefitted from such subsidies may still be subjected to counter-

vailing duties without any demonstration of injury by U.S. producers.

(2) The harmful trade effects that domestic subsidies can cause are recognized and an effort is made to provide some discipline over them.

(3) Through the Code's provisions which authorize the imposition of countermeasures when a subsidy causes "serious prejudice" to another country's interests, U.S. firms can combat foreign subsidy practices that displace their exports to third country markets.

(4) Substantially improved dispute settlement provisions are provided including strict time limits and the right to consideration of the issues in dispute by an independent panel.

(5) Governments must provide upon request information about their subsidy practices.

(6) Certain developing countries have agreed to phase out some of their subsidy practices.

Costs

Before the U.S. government can impose countervailing duties on U.S. imports that have benefitted from other countries' domestic subsidies, U.S. producers must demonstrate that they are being injured by these imports.

III. Advisory Opinion on Extent to Which Agreement Provides for Equity and Reciprocity within the Sector

The subsidies code is clearly the most complex nontariff measure code and deals with the most difficult, controversial

issue tackled in the MTN because it touches basic aspects of a country's economic/social/political system. It is our judgement that the code is probably the best result that could have been achieved in this negotiation, given the divergent interests of the countries represented at the bargaining table. However, much of the code is permissive and its ultimate effect on U.S. economic interests and the balance of equity and reciprocity in the automotive equipment sector will depend upon how the domestic implementing legislation is drafted, how the code is administered by the United States and foreign governments, and how it is interpreted and applied internationally through decisions and actions of the GATT.

Technical Barriers to Trade (Standards)

I. Trade Issue Affecting Automotive Equipment Producers

The principles contained in the Standards Code address what is becoming a serious constraint on international trade in motor vehicles. Because of concerns for improving environmental quality and reducing deaths and injuries from motor vehicle accidents, governments in many automotive producing countries set standards to regulate automotive pollution and vehicle safety characteristics. When these standards or the certification systems and test procedures utilized to enforce them differ among countries, they constrain international trade.

These constraints on international automotive trade may be an appropriate price to pay to protect public welfare. Different conditions among countries may well require different types of standards or require different levels of performance from products in the same standards area. However, the benefits from expanding trade justify close cooperation among national standards setting bodies in international forums to harmonize national standards whenever possible.

At the present time, prospective demand abroad for motor vehicles manufactured in the United States is not sufficiently large to justify the costs of engineering and development to make special production runs for particular foreign markets. The economies of scale achieved through mass production are extremely important in the motor vehicle industry to achieve price competitiveness. The only alternative in the absence of special

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production runs is modifying finished vehicles to conform to foreign standards. The cost of this "homologation" varies with the number and complexity of the specific regulations that are applicable and the specifications of the particular model but it can quickly become prohibitive for the U.S. exporter. In addition, future standards may so basically affect vehicle design that modification after production may be impossible.

Even when countries maintain standards that require manufacturers to achieve different levels of performance in their products, the compatibility of certification and testing procedures by itself would reduce the cost and uncertainty of compliance. The costs of certification and testing are also a serious trade constraint. For example, if countries require different leve. f performance, a manufacturer might choose to design his product to meet the most demanding standard. He would then be certain to meet all the others. However, if countries require testing under different conditions and procedures, the manufacturer must test a number of vehicles (which may require the destruction of the vehicle) for each of the different testing conditions and frequently must submit prototype samples for testing in the country to which the vehicles will be exported to demonstrate that the product will comply in all cases. Given the number of standards with which compliance is required (in the U.S., there are some 40 safety regulations, in Japan more than 50, and in Europe 41 European-wide regulations plus additional individual national regulations) testing becomes expensive and the costs incurred must enter into

the market price of the final product.

In addition, administrative procedures may also inhibit trade. Unwarranted delays in government approvals that an imported product complies with its standards, unjustifiable requests for information irrelevant to the issue of compliance, and other bureaucratic "red tape" can be as effective a nontariff measure as discriminatory standards themselves.

While it does not appear to be the case in the automotive equipment sector at the present time, product standards may of course be used intentionally to discriminate against imports and protect domestic industries. The potential for such unjustifiable abuse of standards setting activity always exists.

II. Impact of the Proposed Code on Issue and Automotive Equipment Producers

Benefits

(1) For several years U.S. motor vehicle manufacturers (with the substantial assistance of the Office of the Special Representative for Trade Negotiations) have attacked discriminatory and unjustifiably burdensome standards, certification and testing requirements imposed upon U.S. motor vehicle exports by the government of Japan. Many, if not all, of the demands this industry made upon the Japanese government will become obligations of governments that adhere to this code. While the U.S. automotive industry has approached (and resolved many of) these problems with Japan independently of the

MTN, the ISAC believes the Standards Code will give us additional leverage in dealing with Japanese and European certification problems in the future.

(2) Signatories commit themselves to the principle that standards, certification systems and test procedures shall not be used for the purpose of creating obstacles to trade.

(3) Discrimination against imported products in certification and testing is prohibited.

(4) Governments are encouraged to adopt standards administration procedures based upon the manufacturers' self-certification that their products comply with all standards. (This is the system utilized by the National Highway Traffic Safety Administration in the administration of U.S. motor vehicle safety standards.)

(5) The European Communities is obligated to permit foreign manufacturers "access" to its regional certification scheme on terms no less favorable than those accorded EC manufacturers, including the application of "e" marks. ("e" marks have been awarded to U.S. motor vehicle manufacturers in the past but as a matter of discretion, not obligation).

(6) Signatories must provide a substantial measure of transparency in the process by which standards are developed and adopted.

(7) A potentially effective dispute settlement mechanism is established.

Costs

None.

III. Advisory Opinion on Extent to Which Agreement Provides for Equity and Reciprocity within the Sector

As a result of the obligations assumed by signatories to this code, other countries should begin to adopt principles of due process and transparency that the United States already embraces. Thus, the code should make substantial progress toward achieving equity and reciprocity within the automotive sector. However, whether the Code does become an effective weapon for U.S. firms to combat discriminatory foreign standards and certification and testing will depend to a large extent on the commitment of the United States to vigorously pursue its rights under the Code and its ability (i.e., the existence of appropriate administrative resources and organization) to do so. How much more work remains to be done in future negotiations will only become apparent with experience with this code.

Customs Valuation

I. Trade Issue Affecting Automotive Equipment Producers

With the substantial reduction by developed countries in the average level of tariffs on industrial products that is the result of the several rounds of multilateral tariff negotiations over the past thirty years, tariff-based restrictions to trade in most industrial products have become increasingly less significant. Currently, valuation procedures utilized by industrial countries are more a nuisance to trade than a major deterrent. This is not to say, however, that they have no commercial significance. In the automotive sector, quite small increments in costs can have a major impact on a company's competitive position. Thus a relatively minor uplift in customs valuation can have a competitive impact of much larger relative proportions.

II. Impact of the Proposed Code on Issue and Automotive Equipment Producers

Benefits

(1) The rationalization and simplification of customs valuation methods employed by countries, including the United States, should reduce a significant nuisance and irritant, if not a major distortion, to trade in automotive equipment.

(2) The Code is business oriented. The invoice price ("transaction value") of the imported goods would be used as the basis for valuation in the vast majority of cases.

(3) The Code should introduce more certainty in valuation practices* so that U.S. manufacturers can predict duties payable in foreign countries with a greater degree of confidence than at present.

(4) The Code will restrain arbitrary actions by government customs officials.

(5) Where there is a disagreement between a businessman and customs authorities in a foreign country, the Code provides for a full range of administrative and judicial reviews. Presently, such reviews are available only in the United States.

(6) The current U.S. practice of increasing the dutiable value of imports to include a share of the "intangible assists" provided by the importer would be moderated and rationalized. Intangible assists, e.g. engineering drawings, research and development support, will be added to dutiable value only when provided from countries other than the country of importation.

*The methods currently employed by the U.S. Customs Service in valuing imported motor vehicles may change as a result of U.S. adherence to the Code, thus changing the effective rate of protection on domestically produced vehicles. No precise estimate of the direction or magnitude of this change has been provided the ISAC; however, government officials indicate any changes will have only very slight effects on the dutiable value of imported vehicles.

Costs

None.

III. Advisory Opinion on Extent to Which Agreement Provides for Equity and Reciprocity within the Sector

The Code, if effectively implemented by its signatories, would largely eliminate arbitrary practices in customs valuation thereby promoting more predictability and uniformity in customs administration among the developed countries of the world.

While the impact of this code on automotive equipment producers will depend upon how governments interpret its guidelines, particularly concerning related party transactions, we are satisfied that the Code will result in progress toward reciprocity and equity in the automotive sector.

While we understand that immediate acceptance of the Code by developing countries is unlikely, except possibly for one or two, we hope that, as the Code is implemented by the developed country signatories, the developing countries also will decide that adopting an increasingly internationalized practice of customs valuation is in their best interests as well.

Government Procurement

I. Trade Issue Affecting Automotive Equipment Producers

The rapid growth of government in general has been fully reflected in its equally rapid growth as a consumer of manufactured products. Governments are therefore very substantial customers for many industries. While government purchases of automotive equipment are not insignificant, especially for smaller firms in the industry, they are not a major factor in international trade in this sector and have little potential for becomming so. For example, in FY 1978, the U.S. General Services Administration purchased 54,255 vehicles for U.S. government use at a cost of $296 million. Total domestic production of motor vehicles exceeded 12.5 million in the 1978 model year.

Buy national policies have effectively restricted government procurements to domestic suppliers unless the products needed were not produced domestically. This has certainly been the case with motor vehicles, a product whose national origin is very much evident. The inherent tendency to want to purchase goods made in one's own country is extremely difficult to overcome, particularly when the purchases are to be made by governmental entities spending revenues generated from national taxation.

II. Impact of the Proposed Code on Issue and Automotive Equipment Producers

Benefits

(1) The Code may provide greater opportunities than

currently exist for U.S. automotive equipment producers to bid on foreign government procurement contracts.

(2) The Code requires a considerable degree of transparency in foreign government bidding procedures to give U.S. firms some confidence that they are competing on a more equal basis with the domestic firms of the foreign country. For example, each signatory country would be required to publish all procurement rules and regulations, and all bid opportunities covered by the Code and to establish adequate time frames for the preparation and submission of bids, award of contracts, and hearing and review of protests.

Costs

U.S. firms would, for those procurements covered by the Code, lose the preferences which they now enjoy in bidding on U.S. government contracts. The general 6 percent "Buy America" preference, the small business 12 percent preference, and the Department of Defense 50 percent balance of payments deficit preference would be eliminated for those procurements.

III. Advisory Opinion on Extent to Which Agreement Provides for Equity and Reciprocity within the Sector

The commitments other governments will have to make by signing this Code and the obligations they will assume in adopting more orderly and transparent procurement procedures may indeed make it more difficult for them to discriminate against U.S. firms and in favor of domestic suppliers. The ability of

U.S. manufacturers to benefit from the nondiscriminatory treatment promised by the Code will in great measure depend upon the effectiveness of U.S. procedures to monitor the actions of foreign governments under the Code and upon the vigor with which the U.S. government pursues through the proposed international dispute settlement mechanism its rights under the Code.

However, notwithstanding these commitments and obligations, it is inconceivable to us that the government of any major motor vehicle producing country, with perhaps one exception, would purchase for its official fleet significant numbers of vehicles not made within its own borders. That one potential exception is the government of the United States. Recently, the U.S. Department of Defense (DOD) effectively ignored its own procurement guidelines and open bidding procedures to give preferential treatment to German manufacturers in procuring trucks valued at $100 million for the use of U.S. troops in Europe. The Code, of course, would not preclude any government from giving foreign firms preferential treatment over domestic firms, as in this DOD procurement case. We cite this case as justification for our concern about the zeal with which the U.S. government can be expected to implement this Code in contrast with the likely performance of other signatories.

Licensing

I. Trade Issue Affecting Automotive Equipment Producers

Products traded internationally are sometimes subject to needless bureaucratic delays as a result of cumbersome import licensing systems. Often procedures and documentation necessary to obtain such licenses are complicated and frequently delay the clearance of products through customs. This problem is particularly acute in developing countries.

II. Impact of the Proposed Code on Issue and Automotive Equipment Producers

Benefit

The Code will promote neutral administration, transparency, simplified procedures, and approval of applications despite minor errors.

Costs

None.

III. Advisory Opinion on Extent to Which Agreement Provides for Equity and Reciprocity within the Sector

The number of developing countries that agree to adhere to this Code will determine its value to U.S. producers of automotive equipment.

Nontariff Measures Not Covered by Codes

No progress was made in four areas.

Remission of Indirect Taxes

The European value added taxes and the Japanese Commodity Tax (see below) are not assessed on products bound for export. Whether the remission or rebate of such taxes has an expor stimulating impact is the subject of considerable controversy. The extent of the disagreement precluded even the discussion of the issue in the MTN. The participants did, however, indicate a willingness to discuss the problem at an international conference on taxation sometime after the MTN. Hopefully this conference can be convened in the reasonably near future. Whenever held, the conference should address the export effects of the remission of the Japanese commodity taxes as well as of the European value added taxes.

Japanese Commodity Tax

The Japanese Commodity Tax is a national sales tax imposed on selected products, including passenger cars. The manner of its assessment discriminates against larger cars (and thus against most U.S. made models) since it is based on vehicle length and engine size. The basis of assessment is as follows:

Cars with a wheelbase less than 270cm (approximately 106 inches) and with an engine capacity less than 2000cc (approximately 122 cubic inches)	15%
Cars with a wheelbase greater than 270cm or with an engine capacity exceeding 2000cc	20%

Most Japanese domestic car models are assessed at the 15% rate whereas most U.S. imports are assessed at the 20% rate. This five percentage point disparity is further exacerbated because Japanese domestic models are taxed using the factory sales price as the base whereas the tax on imports is assessed against their landed price which is the factory price plus freight and insurance.

This issue should be addressed at the prospective international conference on taxation as well.

Discriminatory Road Taxes

European countries impose annual "road taxes" on motor vehicles, based on their size. While the formulas upon which the taxes are based vary, generally they discriminate against "larger" passenger cars. This has been a longstanding issue of concern with the automotive equipment industry. European countries acknowledged the discriminatory trade effect of these taxes during the Kennedy Round of negotiations, offering to eliminate their discriminatory effect in exchange for elimination of the American Selling Price system of customs valuation -- a bargain that was never consumated.

While this issue has receded to some extent with the downsizing of U.S. cars in response to enegy conservation concerns, road taxes in Belgium, Italy, and France still have a substantial discriminatory impact on -- and thus inhibit -- exports of American automobiles. Unlike in other European countries the discriminatory incidence of road taxes in these three countries is such that it cannot be justified by energy conservation

concerns. U.S. negotiators did not succeed in achieving a restructuring of Belgian, Italian, and French road taxes to eliminate their discriminatory effect.

Local Content and Export Requirements

To stimulate economic growth and balance their international payments developing country governments have restricted automotive imports and required foreign firms to establish manufacturing facilities in the country as a condition of doing business in their countries. Such requirements may be supplemented by or linked with requirements that subsidiaries of foreign corporations export either components, finished vehicles or both to other countries despite the fact that these products may not be competitive in the international market. These local content and export requirements are potentially substantial distortions of trade and are likely to lead to serious trade disputes between developed and developing countries. U.S. negotiators were unsuccessful in pursuing ISAC 25 objectives in this area. Because of their potential for triggering trade disputes between industrialized and developing countries, these issues should be addressed in other international fora in the near future.

Results of Tariff Negotiations

Tariff reductions of the Tokyo Round have been the most disappointing aspect of the negotiations to the automotive equipment ISAC.

At the beginning of the MTN, the primary characteristic of the structure of tariffs imposed by countries on imports of automotive equipment was the great disparity between the low rates of duty maintained by the United States and the high rates of duty prevailing elsewhere in the world. Except for the fact that Japan unilaterally reduced its automotive tariffs to zero during the course of the negotiations, the Tokyo Round had little effect on this situation.

The several past major rounds of trade negotiations have achieved tariff reductions by the application of across-the-board percentage reductions in duties. While this approach may have had merit from an overall trade perspective, it has resulted in continuing inequities in the automotive equipment sector. Because the United States had lower tariffs on automotive products (in the 1930's they ranged from 10-25 percent) than those maintained by our trading partners (European and Japanese tariffs ranged between 50 and 100 percent in the

1930's) when negotiations began, the disparity remained in place at the start of the Tokyo Round of negotiations, as demonstrated below:

Automotive Tariffs at the Start of the Tokyo Round

	U.S.	European Community	Japan
Passenger Cars	3%	11%	6.4%
Trucks	4%[1]	22%	6.4%

Given the relative equality of competitive strength of the automotive equipment manufacturing industries in the major producing nations and the intensity of competition in the world automotive equipment market, inequality of market access cannot be justified. Thus the automotive equipment ISAC concurred that a principal objective of the Tokyo Round of negotiations should be the harmonization of tariffs among the major trading nations and the achievement of substantially equivalent competitive opportunities within industry sectors.

In developing our recommendations to U.S. negotiators, ISAC 25 determined that achieving equal market access was the only appropriate goal for the automotive equipment sector in this round of negotiations. We reasoned that true reciprocity was an essential condition for the equitable distribution of the gains from expanding trade as well as a necessary condition to sustain domestic support for continued movement toward an open world economy. To achieve reciprocity in automotive

1/ This duty applies to "cab chassis," the form in which 99.8 percent of non-Canadian trucks are imported into the U.S. The U.S. tariff on trucks per se is 25 percent, imposed in 1963 in retaliation for European restrictions on U.S. poultry imports.

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equipment products, we recommended that duties imposed by major automotive equipment producing countries be equalized at U.S. levels. Because of the cost to our industry of any further reduction in already low U.S. tariffs and in order to preserve future bargaining leverage, we recommended strongly against any further reductions of U.S. tariffs if our trading partners failed to make meaningful steps toward the achievement of full reciprocity in access to markets within the automotive equipment sector.

To our regret this objective was not achieved. While Japan did reduce its automotive duties to zero (a concession of greater symbolic than economic significance), other major automotive producing countries were unwilling to reduce their tariffs to any meaningful degree. The table below summarizes the results of the tariff negotiations for automotive equipment. Of particular significance is the final column in the table which shows the trade value of the respective reductions in duties made by the United States, Japan and the European Community in the automotive equipment sector. Appropriately, the reductions in U.S. automotive tariffs have been modest, reflecting the inability of U.S. negotiators to persuade our trading partners to make more meaningful cuts. Nevertheless, given the value of trade involved, the U.S.

concessions, on a dollar basis, greatly outweigh the concessions made by both Europe and Japan.

Summary of Automotive Tariff Negotiations

	Average Weighted Tariff 1976[1]	Average Weighted Tariff 1979[2]	% Cut In MTN	Value of Trade in 1976	APPROXIMATE VALUE OF CONCESSION[3]
U.S. imports from World	3.3%	2.8%	16%	$7.4 billion	$1.184 billion
U.S. imports from EC	3.2	2.6	18	2.8	.504
EC imports from U.S.	11.2	7.3	35	.475	.166
	U.S. gave more than EC gave:				.338
U.S. imports from Japan	3.3	2.8	14	3.8	.532
Japan imports from U.S. (applied rates)	6.3	3.1	51	.126	.064
	U.S. gave more than Japan gave:				.468

Particularly disappointing was the failure of the European Community to make a meaningful reduction in its tariff on regular trucks and on truck-tractors for semi-trailers which will be dutiable at 20 percent. The same types of trucks are imported into the United States as "cab chassis" dutiable at 4 percent. The continuation of such a sizeable disparity between the U.S. and the EC tariff on trucks at a time when European producers are mounting an aggressive campaign to capture a larger share of the U.S. truck market is completely unjustifiable. ISAC 25 consistently urged U.S. negotiators to

[1] Average ad valorem tariff in 1976 weighted by 1976 trade.
[2] Average ad valorem tariff in 1979 weighted by 1976 trade.
[3] Because of the U.S. Government's computer programs, these figures may include minor amounts of non automotive products; however, it may be reasonably assumed that the margin of error is statistically insignificant.

seek a significant reduction in the EC truck tariff since it is a major hindrance to increased U.S. exports. The EC also still maintains a high tariff on passenger cars -- 10 percent -- that is substantially higher than the level of protection maintained by the United States and Japan -- 2.5 percent and 0 percent respectively. These should receive priority attention in the post-MTN period.

One European concession of potential benefit to U.S. manufacturers was the reduction of the EC tariff on certain automotive parts from its current level of 12 percent to 6.9 percent. While the EC has still not achieved parity (and thus equity) with the United States, whose equivalent tariff will be 3.1 percent as a result of the MTN, U.S. exports to Europe of these products exceeded 213 million in 1976. While disappointed that virtually no progress was made in harmonizing and reducing tariffs on assembled vehicles, ISAC 25 believes that progress toward the harmonization of tariffs on components is desirable as the design and manufacture of vehicles becomes increasingly integrated on a worldwide scale.

U. S. Department of Commerce

and the

Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON
MISCELLANEOUS MANUFACTURES, TOYS, MUSICAL INSTRUMENTS,
FURNITURE, ETC.
FOR MULTILATERAL TRADE NEGOTIATIONS
(ISAC #26)

REPORT ON

MULTILATERAL TRADE NEGOTIATIONS ISSUES

May 16, 1979

George R. Frankovich
Chairman, ISAC #26

1.A. OVERALL

ISAC 26, with the exception of the Writing Instrument Manufacturers Association, does not support the MTN package. While the codes may provide some limited benefits for the industrial sectors covered by this ISAC, these benefits are more than offset by the deleterious effects of the overly generous tariff concessions made by the Administration on products covered by this ISAC.

Most industries in this ISAC are not multinational but rather small-to-moderately-sized industries, serving almost exclusively the domestic market. Further, many industries in this ISAC have frequently petitioned the U. S. government asking for and, in some cases, receiving import relief. The import sensitivity existing in this sector has been ignored by the Administration.

Under the Trade Act of 1974, the objective of the MTN was to provide greater access to foreign markets as well as to achieve a degree of harmonization between the ease of accessibility of foreign exports to the U. S. as compared to the export opportunities for U. S. exports to foreign markets. This key objective has not been obtained even to a limited extent for this ISAC. Foreign barriers in the form of MTNs and tariffs will continue to exist in the areas of jewelry, sporting firearms, sports equipment and writing instruments, while the U. S. has completely opened the U. S. market for these products for both Japanese and EC products by making generally full authority tariff

reductions for products in this sector. Thus industries in this ISAC find themselves still unable to gain access to foreign markets and yet can look forward to vastly increased foreign competition.

In summary, this ISAC has found itself in an inevitable position whereby its tariffs have been traded as concessions for benefits which will accrue to other sectors. The average reductions for U. S. tariffs was 31% while this ISAC's average is nearly 50% with virtually no benefits in either meaningful foreign tariff or NTM code concessions. On the basis of the remaining tariff and NTM disparities problems existing in the EC, Japan, and LDC markets which severely restrict U. S. export from this miscellaneous industrial sector, this ISAC must oppose this package.

Positions of various subsections of the ISAC follows:

Sporting Goods

The Sporting Goods industry is seeing maximum allowable tariff cuts of 60% in hard goods while other developed countries have made offers of about 50%.

The sporting goods trade deficit (including hard goods, and soft goods) was about $1.7 billion in 1978. We need reciprocity in trade to maintain or obtain the ability to market our products worldwide. Many of our duties will be cut to 0% if the MTN package is approved. In trade with

1.A. OVERALL

Canada, for example, we will be facing duties of about 9% while their products will come into the U. S. duty-free We want fair trade. The negotiated tariffs will not provide fair trade for U. S. sports products.

Writing Instruments

The Writing Instrument Manufacturers Association, weighing the pros and cons of the Multinational Trade Agreement package being submitted to the Congress, favors its adoption, although strongly objecting to the action of our government in offering to the GATT the maximum allowable 60% reduction across-the-board on just about every mechanical writing and marking instrument and component from TSUS No. 760.42, in contrast to offers from the EC of 44% and 37%, of 44% from Canada and even lesser offers from other developed nations, the only exception being Japan, which made a substantial counteroffer in the neighborhood of 60%. We depart from the views of our ISAC No. 26 in the belief that, from the overall standpoint, the agreement represents a big step forward for the future of our industry's international trade posture.

We have consistently asked that our negotiators hold the offers on our products to no more than 40% and we now ask again that the Special Trade Representative, Ambassador Robert Strauss, modify the offers on this industry's products to a lower level than the 60% formula in the initialed agreement, preferably to no more than 40%.

1.A. OVERALL

We have maintained a long-term posture of favoring freer trade and of seeking the reduction or elimination of the multitude of non-tariff barriers confronted by our industry's products worldwide. We are deeply concerned that this sixth round of trade negotiations since World War II has only partially tackled the problems posed by such non-tariff barriers and the fact that this country took a position of stopping at the water's edge and not asking for reciprocal elimination of such barriers in so many sensitive areas is disappointing. It had been our hope that our government's negotiators would have strived to develop some form of mechanism to uproot and exterminate, to the greatest degree possible, the hundreds of troublesome barriers posed against our products.

Clearly, these non-tariff barriers will keep us at some disadvantage in attempting to increase our exports during the coming years. If, as we understand may be the case, the EC pauses after the first three staged reductions to study the results and decide their future course with regard to subsequent reductions, we strongly urge that our own government do the same and give industries like our own ample opportunity to present their views on the course of events at that time.

1.A. OVERALL

Pencil Makers Association

The Pencil Makers Association represents a small domestic industry comprised of only seventeen manufacturers of cased pencils (TSUS 760.48).. The industry has little to gain from the relief of non-tariff barriers or the tariff reductions offered by foreign countries for our product because it is not a product which lends itself to export. However, imported pencils (particularly lower priced imports) pose a very real threat to the future existence of the industry.

We are not opposed to some tariff cuts on pencils, but it is essential that a minimum tariff protection be maintained or our industry could be destroyed by a flood of imported, low priced pencils, for reasons outlined in our brief addressed to the Trade Policy Staff Committee dated March 29, 1978.

In that brief and in a letter dated June 7 to Ambassador Allan Wolff we outlined the need for either a maintenance of the current tariff structure and rates or a conversion to a "two tier" duty which would reduce tariffs considerably on imports from many countries while at the same time offering our industry protection from low priced imports.

We believe that the 40% tariff reduction offered on pencils was a concession offered by the U. S. for benefits which will be derived by larger, more vocal industries.

1.A. OVERALL

We are opposed to the MTN package for this reason and fear for the future of our industry.

Jewelry Industry

The Jewelry Industry subscribes to the January 30, 1979, ISAC 26 Report on Stage I of the MTN. When and if these codes are successfully implemented, the export of U. S. jewelry may be somewhat eased.

The results of the Tariff portion of the Negotiation, however, represents a bitter pill for the jewelry industry.

Jewelry imports increased from $281,341,000 to $678,503,000 from 1976 through 1978, an increase of 141 percent. Jewelry exports increased during this same period from $112,618,000 to $165,193,000, an increase of 45 percent.

Disregarding the stone tariff which will in the main be eliminated, most jewelry tariffs are being reduced "greater than formula" and much more than the stated U. S. average of a thirty-one percent reduction. Jewelry tariffs are being reduced about 50 percent. With the exception of precious jewelry (44 percent reduction) most other jewelry tariffs are being reduced the limit the law allows -- 60 percent. With the rate of jewelry imports increase at 50 percent per year and taking a significant portion of the domestic market, we must conclude that import sensitivity was disregarded in this negotiation. Indeed, even segments of the industry that

1.A. OVERALL

have qualified for "adjustment assistance" were subjected to maximum (60 percent) decreases (watch bands).

Taking the sector approach, we again appear to have lost. Except for Japan, which both started at a very high base and which has the trading company complex in dealing with imports, our foreign competitors' cuts, weighted by the amount they import from the U. S., is less than our own. The EEC is cutting jewelry tariffs about 48 percent and Canada about 44 percent.

Clearly the jewelry industry's advice regarding these negotiations has little effect. This, of course, is frustrating to the private sector advisors (ISAC members) who have individually spent hundreds of hours and thousands of dollars availing themselves of the proferred opportunity to advise. In spite of its inadequancies, rather than abandon the advisory system, it should be made workable and effective. I will submit separate recommendations in this regard.

2.B. COMMERCIAL COUNTERFEITING

ISAC 26 favors the U.S. proposed draft code on counterfeiting, offering particular protection to U.S. Trademarks in international commerce. The ISAC strongly recommends that the seized merchandise be destroyed.

2.C. CUSTOMS VALUATION

ISAC 26 endorses the proposed code on customs valuation which uses, as the prime means for determining custom value, the transaction value.

2.D. GATT FRAMEWORK

ISAC 26 supports the more formalized system of complaint and dispute settlement and consultation and conciliation as proposed in this code.

The ISAC strongly considers fluctuating exchange rates a major problem which should be subjected to discipline under GATT.

Several members of the Committee express concern that this code has no provisions for resolving key supply-access problems, affecting various U.S. industries.

2.E. GOVERNMENT PROCUREMENT

ISAC 26 generally supports the opening up of foreign government procurement to open bidding. Several industries represented in this ISAC will benefit from this code. The ISAC believes that only signatories should benefit by increased access to U.S. govenment purchases.

2.F. IMPORT LICENSING

ISAC 26 supports this code which provides simplification or elimination of restrictive licensing practices. Further the code eliminates customs delays due to technical documentation errors. We believe this code constitutes a forward step in promoting international trade.

2.G. SAFEGUARDS

ISAC 26 generally supports the U.S. efforts in the Safeguards Code since the code will provide a substantial improvement in the safeguard procedures applied by foreign countries. It supports the U.S. negotiating position on selectivity; orderly marketing agreements; graduation of LDCs; transparent and expedited procedures; and provisional authority to restrict imports where the threat of injury exists to domestic producers. Since this Code is incomplete, ISAC 26 is unable to offer substantive comments on specific code provisions.

2.H. STANDARDS

ISAC 26 approves of the code provisions to eliminate discriminatory standards, testing and certification procedures which inhibit trade. We endorse efforts for self certification on products to be exported. The opportunity for industry to review and provide data to any new or revised standards under the code is extremely important. All standards and notifications should be made available in the principal commercial languages.

2.7. SUBSIDIES

ISAC 26 generally approves of the Subsidies Code and makes the following observations and/or recommendations.

1. It prefers the flat prohibition of all subsidies.
2. It supports the elimination of the need to prove injury in the event of export subsidies within GATT signatories.
3. It supports the use of provisional measures to counter a subsidy prior to final determination that countervailing duties are warranted.
4. The code definition of industrial product should correspond to the definition in the Trade Act of 1974.
5. It believes countervailing duty should equal the subsidy and not be just sufficient to preclude further injury.

IMPLEMENTING LEGISLATION

ISAC 26 supports implementing legislation which provides the following:

1. The creation of a single agency jurisdiction and responsibility over all matters of foreign trade. This would include coordination and dissemination of information and generally assist industry in obtaining the correct avenue for relief from injurious or unfair foreign trade practices.

   Additionally information should be accessible for available export opportunities. This information should be made readily available through either localized information centers or toll-free numbers.

2. The committee strongly recommends the continuation of the Industry Advisory Committees on a permanent basis.

3. With regard to Commercial Counterfeiting, the U.S. law should provide disposition by destruction of the counterfeit products. Also, the provision to stop the sale/import of these goods should be immediate. Relief should be made available to the domestic party injured by the sales of these products in the domestic market or in a third country market. Provision for sanctions against

countries where counterfeit products originate should be included in the law.

4. In the implementing legislation under Customs classification a better domestic/international system of classification should be designed and implemented.

5. For non-signatories to the subsidies code, the U.S. law should maintain the "no injury" requirement in the U.S. CVD law.

6. The implementing legislation should provide for redress of injuries to domestic industry resulting from disincentives arising from foreign trade practices.

7. Small arms and ammunition should be declared essential for U.S. national security.

8. The ISAC supports the maintenance of either DISC or DISC-like entities as an aid for U.S. exports.

U.S. Department of Commerce
and the
Office of the Special Representative
for Trade Negotiations

INDUSTRY SECTOR ADVISORY COMMITTEE ON RETAILING FOR MULTILATERAL TRADE NEGOTIATIONS (ISAC #27)

REPORT ON MULTILATERAL TRADE NEGOTIATIONS ISSUES

April 26, 1979

William Kay Daines, Chairman
Industry Sector Advisory Committe
on Retailing (#27)

ISAC INDUSTRY SECTORAL ADVISORY COMMITTEE #27

(Retail ISAC)

Final Report on Trade Agreements

I. OVERALL EVALUATION OF TREATIES

The Retail Industry Sectoral Advisory Committee (ISAC 27) supports the multilateral trade agreements and codes negotiated by the President of the United States pursuant to the authority granted by the Trade Act of 1974. The Retail ISAC recommends and urges that those agreements and codes be ratified by the Congress of the United States for the following reasons:

A. Although the agreements fall short of the objectives set by the Retail ISAC for the multilateral trade negotiations, they represent a balanced approach that considers all segments of the economy. The U.S. trade position and offer have been worked out through continuous negotiations on a broad scale with advisory committees representing the principal segments of the economy.

B. The codes provide a framework for solving many problems that are anticipated in the next decade in order to allow avoidance of the prospect of increased protectionism both within the United States and among our major trading partners.

C. The codes establish new international rules to promote fair trade, establish monitoring, and dispute settlement mechanisms that are vital to U.S. exports.

D. For the first time, as a result of the Trade Act of 1974, the impact on the consumer has been considered. Tariff reductions on selected consumer goods will provide some benefit to the U.S. consumer even though those reductions are, in many cases, such as textile and apparel, minimal.

E. The agreements have the potential to improve the predictability and reliability that are necessary for retailers who participate in international trade.

II. NON-TARIFF CODES EVALUATIONS

A. Aircraft

Not applicable.

B. Counterfeiting

The international code on counterfeiting is a necessary and laudable step forward for fair trade practice in international commerce It is necessary that the definition of what is subject to the counter-

feiting code be unequivocal so as to give predictability to the process of enforcement and avoid injury resulting from false accusations of counterfeiting which could tie up goods in international commerce to the detriment of the owners. The United States should avoid any implementing legislation or regulations which would grant greater design protection in international commerce than is provided by United States law in domestic commerce.

C. Customs Valuation

The Customs Valuation Code is of primary importance to the retail industry. It establishes transaction value as the principal method of valuation which retailing specifically endorses. The code also abolishes the American Selling Price (ASP) method of valuation. This is an important benefit to retailing. However, the tariffs proposed for footwear which is now subject to ASP are much too high and in many instances will result in greatly increased duties, and higher prices for the consumers.

The Agreement allows each party to choose between an FOB or a CIF method of computing transaction value. The United States uses the FOB method. If it were to adopt the CIF method, there could be a substantial increase in tariffs which would be reflected in consumer prices. In addition, there would begin to emerge a discrimination in the use of certain U.S.A. ports of entry which would result in distortions of trade and pockets of unemployment. Discrimination against types of shipping would also occur with air freight being avoided and the possible reduction of shipment in American flagships when their rates are above other shipping. The Retail ISAC (#27) opposes any move to a CIF valuation method basis.

D. Framework

The retail industry supports the trade negotiations for improving the General Agreement on Tariffs and Trade. Retailing believes strongly in the principle of international competition without artificial barriers. As nations grow in their capacity to assume a major rôle in world trade, they must also take upon themselves the responsibility of sharing the burden. Special and differential treatment is a necessary part of world trade in helping lesser developed countries, but the responsiblity for international fair trade and competition must ultimately be assumed by all nations.

E. Government Procurement

Not applicable.

F. Import Licensing

The retail industry supports the Import Licensing Agreement which has been negotiated. The problems of cumbersome licensing arrangements are an impediment to trade and result in increased costs to those engaged in international commerce. The Licensing Agreement operates

as a benefit to the retailing community because it establishes more transparency in the licensing procedures and practices. Retailing will oppose any grant of authority to auction licenses or impose license systems on U.S. law.

G. Safeguards

The Safeguards Code is of importance to retailing. The use of safeguards is subject to abuse by both this nation and our trading partners. In no event should the international standard be less than that under current U.S. law. Retailing wants the opportunity to study the agreement provisions on "selective safeguards" when they are fully negotiated. Retailing is particularly concerned about the increased use of Orderly Marketing Agreements as an escape mechanism from the GATT provisions. Orderly Marketing Agreements are strict non-tariff barriers and must be carefully controlled.

The U.S. safeguards proceedings are structured in such a way as to allow the petitioning industry adequate time in which to prepare its petition for relief. It is important that sufficient time periods, as those currently in the statute, be provided in order to allow adequate preparation and response to the petition. There should be no shortening of the time periods, particularly at the Presidential level where the full economic and consumer market impact must be studied for the first time in the proceedings. In addition, we urge the use of administrative law judges in escape clause proceedings. The use of such administrative law judges would increase the professionalism, accuracy and reliability of the proceedings.

H. Standards

Retailing supports the International Standards Code as it has been written.

I. Steel

Not applicable.

J. Subsidies

The International Subsidies Code takes a correct step in identifying beforehand the types of subsidies which are subject to countervailing duties. Retailing strongly supports the addition of an injury requirement and urges the adoption in U.S. law of "material injury" as is required in the International Code. We understand "material injury" as something less than "serious", but greater than that applied in anti-dumping proceedings. Retailing has little opportunity to respond in either anti-dumping or countervailing proceedings since antitrust laws prevent a retailer from having any knowledge of another importer's prices, nor is the retailer able to inquire into either the costs of production or selling prices of the foreign manufacturer. Consequently, the retailer must rely on the U.S. Treasury Department and the U.S. International Trade Commission to adequately determine the accuracy of the alleged

price differentials and the injury to domestic industries. Sufficient time periods, as well as properly established and funded methods for making such determinations, must be part of the implementing legislation. Retailing will strongly oppose any attempt to include provisional and/or retroactive measures in U.S. law.

III. OTHER TRADE MATTERS

A. Tariff Reductions

The final tariff offer by the U.S. will have only a moderate to minimal effect on the consumer market. Because items protected by the escape clause proceedings are mandatorily exempt from the reductions, both non-rubber footwear and color TV sets will receive no reduction in tariffs. In the area of footwear covered by the American Selling Price doctrine, tariffs are actually being increased in some cases. The tariff reductions on textiles and apparel are substantially below the reduction in other categories and, when staged over an eight-year period, will be more than offset by inflation.

When the Tariff Agreements are put into effect, the United States should carefully examine the Tariff Schedule to determine where other tariff reductions could be made that would benefit United States consumers and help to reduce inflation. After the Tariff Agreements become effective, there will no longer be any need for the United States to withhold tariff concessions in order to benefit our trading posture in the Multilateral Trade Negotiations. The United States could, and should, unilaterally make reductions, such as maximum tariff reductions, for all products where less than 5% of the domestic market demand is being produced within the United States.

B. Tariff Classifications

Although it is not part of the Multilateral Trade Negotiations, simplification of U.S. Customs classifications was recommended in the original Retail Special Advisory Committee Report to the Administration. This goal has not been met, and the method of stating tariff reductions will work to substantially complicate the Tariff Schedules.

It appears that tariff reductions are to be made using the seven digit Tariff Schedules designations. In the past, seven digit classifications have only been used for statistical purposes, and classification for duty purposes has been based on the broader--five digit--classifications. Using the seven digit classifications for duty purposes will pose potentially serious classification problems for Customs and for importers.

The highly technical distinctions in the character of merchandise necessary for seven-digit classifications will now often have critical monetary significance. Indeed, because apparel styles, for example, change regularly, these changes in the Tariff Schedules will inevitably lead to confusion and, perhaps, a new round of classification disagreements. The

introduction of a new element of unpredictability in the cost of merchandise is a most unwelcomed development to merchants. Retailing, therefore, opposes this new complication of the duty assessment process.

In addition, there is concern that this step may provide the basis for similar new classification levels in the category system used for quota purposes. The flexibility inherent in broad quota categories is necessary to accommodate changing consumer buying habits, and retailing, therefore, would oppose any move to further refine the quota category system.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREIGN AGRICULTURAL SERVICE
WASHINGTON, D.C. 20250

JUL 9 1979

Honorable Robert S. Strauss
Special Representative
for Trade Negotiations
1800 G. Street, N.W.
Washington, D.C. 20506

Dear Mr. Ambassador:

On behalf of the Agricultural Policy Advisory Committee for Trade Negotiations, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements which were initialed in Geneva, Switzerland.

This report complies with Section 135(e) of the Trade Act of 1974, which requires the Agricultural Policy Advisory Committee, at the conclusion of negotiations for each trade agreement entered into under that Act, to provide to the President, to the Congress, and to the Special Representative for Trade Negotiations a report on such agreement(s).

The Committee appreciates the opportunity it has had during the process of negotiations to consult on a continuing basis with government officials involved in the negotiations and strongly supports the continuation of the private sector advisory committee system.

The Committee supports the Multilateral Trade Negotiations as representing the very best agreement obtainable under the present circumstances.1/

The Committee recommends the passage and signing of the implementing legislation as being in the best national interest and that of the agricultural community as a whole.

This approval is subject to the concerns, warnings, and suggestions contained in the enclosed report covering various aspects of the negotiations.

1/ The Committee report does not comment on any negotiations that are still in progress as of the date of this report - June 12, 1979.

The Committee reiterates its strong concern about export subsidies. The Committee believes that only effective and timely actions by the U.S. Government can limit unfair subsidized competition at home and in third country markets abroad.

The Committee recommends the continuing of the existence of the Office of the Special Representative for Trade Negotiations to cover all trade policy functions.

Dissenting views or comments of three Committee members are contained in an Addendum to the report.

A list of Committee members is attached to the report.

Sincerely,

G. H. White

George H. White
Executive Secretary
Agricultural Policy Advisory Committee

Enclosure

Report of the Agricultural Policy Advisory Committee for
Trade Negotiations
on the
Multilateral Trade Negotiations Agreements
Initialed in Geneva, April 12, 1979

SUBSIDIES AND COUNTERVAILING DUTIES CODE

It is the understanding of the Agricultural Policy Advisory Committee (APAC) that, with respect to agriculture, the Code is intended to have two major benefits for the United States: (1) it will permit timely U.S. countervailing duty actions to protect domestic producers from subsidized import competition, and (2) it will provide clearer international rules on export subsidies in third markets.

The APAC views the code as primarily an extension and clarification of existing international rules on primary products under the GATT. These rules will be no more self-enforcing than past rules have been. We believe that only effective and timely actions by the U.S. Government pursuant to these rules, through new and existing domestic legislative authority and continuing negotiations, can limit unfair subsidized competition at home and in third country markets abroad.

The APAC wishes to record the following specific comments on key issues with respect to the code:

The U.S. Domestic Market. One of our major concerns is the timeliness of U.S. actions against subsidized imports. In the past, countervailing duty investigations have dragged on endlessly and sometimes concluded with no determinations made. Currently, under the 1974 Trade Act, final determinations can take as long as a year and provisional countervailing measures cannot be taken in the interim. Under the code, provisional measures could be taken whenever an injurious subsidy was found to exist and countervailing duties could even be levied retroactively in critical circumstances (on imports made up to 90 days before provisional measures are taken).

The APAC believes strongly that if the United States accepts an injury requirement in the new code, it must then enact domestic legislation to take full advantage of the timely provisional and retroactive countervailing measures the code permits. Moreover, such legislation must require reasonable outside time limits for action -- in the case of export subsidies no more than 60 days should be permitted (domestic subsidy investigations, which are more complicated, might be given an extra reasonable period). In addition, the nature of the domestic injury test itself would also be crucial. Such a test should place major emphasis on the impact of subsidized imports on producer prices,

Certification Systems. The APAC strongly believes that in implementing this code, only products which meet the established U.S. health and quality standards should be certified as acceptable, without exception.

Conclusions. The United States should not relax its high health, safety, consumer and environmental protection and quality standards in food production and distribution. The APAC believes that U.S. technical regulations and standards will not be adversely affected by the standards code. On the other hand, the United States could use the code to complain about foreign standards that are barriers to the trade of U.S. products.

FRAMEWORK (GATT REFORM)

1. LDC Issues

The agreements modifying the trade rules under the general agreement on tariffs and trade are difficult to evaluate. It is not possible to foresee fully the implications for agricultural trade.

Some of the changes legitimize LDC programs such as GSP, regional and global preferences among the LDC countries, the granting of special and differential treatment in the new codes, and special treatment of the least developed countries. Another agreement broadens the GATT provisions governing the use of import safeguards by developing countries. The LDC's, in turn, would be expected to participate more fully in GATT as they progress economically.

The balance of the GATT changes were sought by the United States -- changes of the GATT dispute settlement mechanism, export restrictions, and the use of surcharges for balance of payments purposes.

GSP is controversial in many sectors of agriculture. Until now, GSP has operated under a waiver of GATT's MFN provisions. Under the new agreement, the extension of GSP preferences will be legal under GATT. The LDC countries have argued that future modifications or withdrawals should be compensated. The United States refused to accept this LDC argument and the agreement does not contain any provision for compensation.

In addition, the incorporation of GSP into GATT gives it a permanent basis. Many APAC members are not prepared to embrace any recommendation to continue GSP. We are concerned that Congressional action regarding the future of the U.S. program might well be preempted.

Affected U.S. agricultural interests in the past have also felt that there has been inadequate notification to permit opportunities to comment on GSP modifications. Improvements of these USG procedures are recommended.

Export Restrictions and Charges (continued)

The Trade Act of 1974 called for the strengthening of GATT to assure access to supplies including rules and procedures governing imposition of export controls, the denial of fair and equitable access to such supplies, and effective consultation procedures. Any modification would affect agricultural export interests.

The APAC remains steadfastly opposed to the use of export embargoes on domestic agricultural products.

GOVERNMENT PROCUREMENT CODE

This agreement requires governments to eliminate discriminatory purchasing practices and establish procedures whereby foreign sellers would have the same opportunity as domestic firms to bid on Government purchase contracts.

Coverage. It is the APAC's opinion that there is little advantage for the inclusion of any U.S. agricultural purchasing entities in this code. Major programs which should be excluded and the FY 1977 value of agricultural purchases under their auspices are: The Berry Amendment (PL 458, June 30, 1954), totaling over $1.3 billion; USDA feeding programs including inter alia school lunch, needy families and elderly persons, valued at $562 million; state and local purchases, equal to about $4.7 billion, of which 61 percent is a Federal contribution by the USDA; and lastly, the Veterans Administration, valued at approximately $74 million.

Conclusion. The APAC understands that the above programs, excepting the Veterans Administration, are excluded from code coverage. Veterans Administration purchases of agricultural products also should have been specifically excluded.

LICENSING AND CUSTOMS VALUATION CODES

It is the APAC's understanding that the customs valuation code will facilitate the valuation of goods for exporters and importers, and the licensing code will subject all import licensing systems to the same administrative discipline.

Conclusions. The codes discussed above should not have a major impact on agricultural trade. However, they could facilitate the flow of trade by reducing the administrative encumbrances in these areas.

The APAC believes that the above effects will be realized only if key countries where these problems now exist become signatories, and the dispute settlement mechanism which focuses on these areas is effective.

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2. The regular and periodic exchange of information, and including consultation among the member countries, can become beneficial to the United States and to other countries as well, but we have no assurances thereof.

3. There is always the possibility the forum would facilitate the alignment of other participating countries in tactics or programs that could be injurious to a single member country which, for any reason, declined to recognize the desires and recommendations of other participating countries.

The APAC proposes these recommendations which relate directly to the IMA:

1. Since the International Arrangement is a "Meat" arrangement, the product coverage could well be expanded to include pork, and possibly lamb, as well as bovine meat.

2. Since it seems imperative that U.S. members of the IMC have the advantage of input and advice from industry representatives or actual producers, language be inserted in the MTN implementing legislation which states, in effect,

   "It is the sense of the Congress of the United States that if the Government of the United States becomes a member country to the IMA, the official delegates to the IMC shall be accompanied by several industry representatives or actual producers who are to serve at all times as advisors to the delegates."

INTERNATIONAL DAIRY ARRANGEMENT

The International Dairy Arrangement (IDA) was proposed by certain dairy exporting countries to establish a single global organization responsible for (a) exchange of information and consultations about world dairy markets and problems, including those related to food aid and noncommercial transactions, and (b) establishing minimum export prices for milk powder, milk fat, and certain cheeses. It would replace the existing minimum export price arrangements of the GATT Dairy Arrangement and the OECD Gentlemen's Agreement whose members do not include the United States.

The APAC recognizes that other countries place importance on the United States joining the IDA because we are an important importer of dairy products. Based on the following key points concerning the IDA, the APAC believes that the United States could accede to the Arrangement:

1. Decisions of the Dairy Council will be by consensus so that no country will be obligated to actions it does not voluntarily agree to.

ADDENDUM

Mr. George Atkinson does not support the transmittal letter or the report for the following reasons:

(1) Subsidies and Countervailing Duties Code. He cannot support the code.

(2) Requests and Offers. He cannot support the increase in the U.S. cheese import quotas and the elimination of the price break provision that applied to U.S. cheese imports that were agreed to by the United States.

Mr. Harvey Ebert does not approve the transmittal letter or the report for the following reasons:

(1) Transmittal letter. He does not agree that this was "the very best agreement obtainable under the present circumstances."

(2) Subsidies and Countervailing Duties Code. Page 1, paragraph one, item (1) says "it will permit timely U.S. countervailing duty actions to protect domestic producers from subsidized import competition." He does not agree because we will be importing subsidized cheese.

(3) Requests and Offers. He cannot go along with the last paragraph which recommends the request and offer phase of the trade negotiations to the President, the Special Representative for Trade Negotiations, and the Congress because it is inconsistent with U.S. dairy interests.

Mr. James Shaver approves the transmittal letter and the report but observes that there is little gain for grains in the negotiations and the codes needed to be effectively implemented.

June 29, 1979.

MEMBERSHIP OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Albert A. Anzaldua
McAllen, Texas

George D. Atkinson
Adm. Asst. to Gen. Manager
Associated Milk Producers, Inc.
San Antonio, Texas

J. Gerald Beattie
President
National Pork Producers Council
Sumner, Nebraska

Albert G. Clay
Chairman of Board
Burley Auction Warehouse Assn.
Mt. Sterling, Kentucky

Clifton B. Cox
Chairman and President
Armour and Company
Phoenix, Arizona

Tony T. Dechant
President
National Farmers Union
Denver, Colorado

John A. De Luca
President
Wine Institute
San Francisco, California

Harvey H. Ebert
Group Vice President
Land O'Lakes, Inc.
Minneapolis, Minnesota

Harold E. Ford
Executive Director
Southeastern Poultry and
Egg Association, Inc.
Decatur, Georgia

Charles L. Frazier
Director, Washington Staff
National Farmers Organization
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Robert M. Frederick
Legislative Director
National Grange
Washington, D.C.

Allan Grant
President
American Farm Bureau Federation
Park Ridge, Illinois

Ms. Ellen Haas
Community Nutrition Institute
Washington, D.C.

Robert N. Hampton
Vice President, Marketing and
International Trade
National Council of Farmer Cooperatives
Washington, D.C.

Julian B. Heron, Jr.
Pope Ballard and Loos
Washington, D.C.

Seymour B. Johnson
Indianola, Mississippi

Hugh C. Kiger
Executive Vice President
Leaf Tobacco Exporters Assn., Inc.
Raleigh, North Carolina

Warren Lebeck
Senior Executive Vice President
Chicago Board of Trade
Chicago, Illinois

Don F. Magdanz
Senior Vice President and Secretary
National Cattlemen's Association
Omaha, Nebraska

Stanley M. Moore
President
North Dakota Farmers Union
Jamestown, North Dakota

Bruce J. Obbink
Manager
California Table Grape Commission
Fresno, California

(over)

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREIGN AGRICULTURAL SERVICE
WASHINGTON, D.C. 20250

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

Dear Mr. President:

On behalf of the Agricultural Policy Advisory Committee for Trade Negotiations, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements which were initialed in Geneva, Switzerland.

This report complies with Section 135(e) of the Trade Act of 1974, which requires the Agricultural Policy Advisory Committee, at the conclusion of negotiations for each trade agreement entered into under that Act, to provide to the President, to the Congress, and to the Special Representative for Trade Negotiations a report on such agreement(s).

The Committee appreciates the opportunity it has had during the process of negotiations to consult on a continuing basis with government officials involved in the negotiations and strongly supports the continuation of the private sector advisory committee system.

The Committee supports the Multilateral Trade Negotiations as representing the very best agreement obtainable under the present circumstances.1/

The Committee recommends the passage and signing of the implementing legislation as being in the best national interest and that of the agricultural community as a whole.

This approval is subject to the concerns, warnings, and suggestions contained in the enclosed report covering various aspects of the negotiations.

1/ The Committee report does not comment on any negotiations that are still in progress as of the date of this report - June 12, 1979.

The Committee reiterates its strong concern about export subsidies. The Committee believes that only effective and timely actions by the U.S. Government can limit unfair subsidized competition at home and in third country markets abroad.

The Committee recommends the continuing of the existence of the Office of the Special Representative for Trade Negotiations to cover all trade policy functions.

Dissenting views or comments of three Committee members are contained in an Addendum to the report.

A list of Committee members is attached to the report.

Respectfully,

George H. White
Executive Secretary
Agricultural Policy Advisory Committee

Enclosure

Identical letter sent to:
Honorable Walter F. Mondale (President of the Senate)
Honorable Thomas P. O'Neill, Jr. (Speaker of the House)
Honorable Robert S. Strauss (Special Trade Representative)

BEST COPY AVAILABLE

MISSISSIPPI FARM BUREAU Federation
"Equality for Agriculture"
POST OFFICE BOX 1972
TELEPHONE 601/948-7401
JACKSON, MISSISSIPPI 39205

HUGH M. ARANT
PRESIDENT

May 28, 1979

Honorable Robert S. Strauss
Special Representative
for Trade Negotiations
1800 G. Street, N. W.
Washington, D. C. 20506

Dear Mr. Ambassador:

On behalf of the Agricultural Technical Advisory Committee for Trade Negotiations on Cotton, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements initialed in Geneva April 12, 1979.

This report complies with Section 135(e)(1) of the Trade Act of 1974 which requires each sector advisory committee affected by a trade agreement made under authority of that Act, at the end of negotiations for each such agreement, to provide the President, the Congress, and the Special Representative for Trade Negotiations with a report on the agreement.

Sincerely,

Hugh M. Arant

Hugh M. Arant, Chairman
Agricultural Technical Advisory Committee
for Trade Negotiations on Cotton

Enclosure

Report of the Agricultural Technical Advisory Committee for
Trade Negotiations on Cotton
on the
Multilateral Trade Negotiations Agreement
Initialed in Geneva, April 12, 1979

The Committee has reviewed the offers made by the United States on cotton and offers received by the United States on cotton in the Multilateral Trade Negotiations (MTN).

A viable U.S. cotton industry is dependent upon a strong U.S. domestic market and a significant export market for U.S. cotton. Since imported textiles displace U.S. domestically produced textiles and since imported textiles might contain some cotton but are not necessarily made from U.S. cotton, the Committee considers that reasonable restraints should be applied to textile imports in order to hold such imports at levels that will not cause excessive interference with domestic markets, and that market development activities should be carried out in foreign countries in order to maintain and expand markets for U.S. cotton and cotton products in such countries. The Committee recognizes that efforts are being made to reasonably control international trade in textiles through the Multifiber Arrangement (MFA) and recommends that the rate of growth of textile imports be limited to the rate of growth of the U.S. domestic market.

Offers Made by the United States

In considering these offers, the Committee assumed that Section 22 of the Agricultural Adjustment Act of 1938, as amended, would be continued without modification and that no commitment would be made by the United States in any international agreement that would require

modification of the special cotton import provisions of the Agricultural Act of 1977.

a. The Committee concurs in the offers made by the United States on cotton and silk.

b. The Committee concurs in the offers received by the United States from Australia, the European Community (EC), and Taiwan on cotton, cotton linters, and silk.

c. The Committee concurs in the offer received by the United States from the Philippines on cotton but would hope that the effective duty rate could be maintained at the current rate of 10 percent, if possible.

d. The Committee recommended that the offer received by the United States from Chile on cotton be rejected.

In evaluating the offers made and offers received, the Committee considers that U.S. cotton exports could be favorably influenced and would not be adversely affected by acceptance of the offers made and/or offers received as outlined above.

Private Sector Advisory Committees

The Committee considers that the legislative authority for advisory committees should be continued after the completion of the Tokyo Round of the MTN and that the authority should provide for industry advisors to participate in the planning, negotiating, and implementation of international trade agreements. While the methods and procedures set forth in the Trade Act of 1974 for

Sector Advisory Committees appeared logical and desirable when the legislation was enacted, experience has shown that the operations of the Sector Advisory Committees have not been as efficient, effective, and meaningful as was anticipated. Consequently, special efforts should be made by the Administration to assure that Sector Advisory Committees will operate in a more efficient and effective manner in the future.

Standards

The Committee recommends that the authority for establishing, maintaining, and administering standards for agricultural commodities should continue to be the responsibility of the U.S. Department of Agriculture. The Committee considers that it would be inadvisable and inappropriate to vest such authority in any nonagricultural agency, but agrees that it might be appropriate for nonagricultural agencies to make recommendations regarding standards for agricultural commodities to the U.S. Department of Agriculture for consideration by the Department in respect to establishing, maintaining and administering standards for agricultural commodities.

The Committee wants to emphasize that the "Universal Standards for Upland Cotton," which are established by the U.S. Department of Agriculture in consultation with U.S. and foreign industry and trade representatives, are the basis for selling, buying, and arbitrating American-type cotton all around the world. The Committee agrees that participants of the Agreement should encourage the adoption and use

of internationally recognized grade standards in international transactions involving agricultural commodities. While the Committee understands and appreciates that the question of the quality of commodities moving under commercial transactions is not covered by this Code, the Committee considers that the official text should clearly indicate that this is the case. The provision of this Code should not be permitted to be interpreted as applying to the "Universal Standards," as such an interpretation could undermine this vital and proven system of cotton merchandising.

Subsidies/Countervailing Measures

Under this Code, the Developing Countries are scheduled to receive special and differential treatment that would permit them to subsidize exports. Textile and apparel items covered by the MFA should be excluded from coverage by this Code as subsidized exports of textile and apparel items could undermine the MFA.

The Code states that countervailing duty investigations should normally be concluded in one year. The Committee considers that such investigations should be concluded in the minimum possible time.

Since subsidization constitutes a per se violation of fair-trade concepts, the Committee presumes that subsidization of exports to the United States by foreign countries results in de facto injury to U.S. manufacturers of competing products. Under

the circumstances, the Committee does not consider that an "injury text" should be necessary in cases where there is a clear demonstration that foreign subsidies have been applied to products exported to the United States. However, if Congress considers that some "injury text" is necessary in order for the United States to obtain the cooperation of other countries for the inclusion of "internal" subsidies under the International Subsidies Code, the Committee considers that the "injury test" applied to Countervailing Duty investigations should be the same as that applied to Antidumping investigations under our Antidumping Act since January 3, 1975. Consequently, if the implementing legislation includes a provision for an "injury test," the Committee recommends that the "injury test" for Countervailing Duty cases be the same as the "injury test" for Antidumping cases.

Government Procurement

The Committee agrees that the U.S. Department of Defense purchases of textiles and apparel should be exempt from provisions of this Code, which would be consistent with the Berry Amendment.

In addition, the Committee considers that purchases of commodities by the U.S. Department of Agriculture under price support programs and for human feeding programs should be exempt from the provisions of this Code.

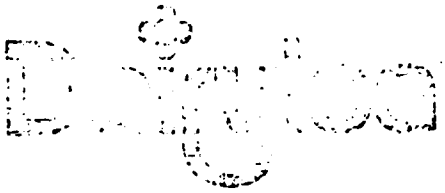
The implementing legislation for the MTN should not authorize the President to waive the provisions of the "Berry Amendment" in

respect to the procurement of textiles and apparel by the U.S. Department of Defense.

General

The Committee recognizes that efforts to liberalize international trade are constructive and generally supports such efforts. Such liberalization can be in the best long-term interest of the United States. However, the Committee does not consider that the President's authority to negotiate reductions in tariff and nontariff matters should be extended beyond January 2, 1980. In the Committee's opinion, the implementing legislation for the MTN should not grant any authority for future negotiations. Furthermore, the Committee considers that the granting of any authority for future negotiations should be handled in the customary legislative fashion after full hearings have been held.

May 25, 1979



DAIRYLEA COOPERATIVE INC.
CORTLANDT HILL PLAZA
PLEASANTVILLE, N.Y. 10570
TEL. 914/627-3131

June 28, 1979

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

Dear Mr. President:

On behalf of the Agricultural Technical Advisory Committee for Trade Negotiations on Dairy, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements initialed in Geneva April 12, 1979.

This report complies with Section 135(e)(1) of the Trade Act of 1974 which requires each sector advisory committee affected by a trade agreement made under authority of that Act, at the end of negotiations for each such agreement, to provide the President, the Congress, and the Special Representative for Trade Negotiations with a report on the agreement.

Respectfully,

Richard E. Redmond
Chairman
Agricultural Technical Advisory Committee
for Trade Negotiations on Dairy

Enclosure

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Report of the Agricultural Technical Advisory Committee for Trade Negotiations on Dairy
on the
Multilateral Trade Negotiations Agreements
Initialed in Geneva, April 12, 1979

This is the final report by the Agricultural Technical Advisory Committee on Dairy regarding the Multilateral Trade Negotiations. This report has been developed from the information available on the dairy negotiations and implementing legislation.

Recommendations

The Committee has stated its positions in the past as follows:

a) Section 22 dairy quotas are absolutely necessary to assure the well-being of the U.S. dairy industry and should not be considered a negotiable item in the MTN (letters of August 26, 1975 and February 11, 1977).

b) The adjustment of country-quotas on non-subsidized dairy products within established quota levels may be considered; but, the expansion of quotas is not acceptable.

c) All direct and indirect export subsidies should be eliminated.

d) No subsidy agreement should include an "injury test" prior to the implementation of a countervailing duty.

The Committee reaffirms these views.

The Dairy Committee made very few requests and offers because most major milk producing countries have domestic price and income support programs for dairy. These domestic programs are not subject to significant changes as a result of the MTN.

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Proposals of the MTN contrary to the Committee's advice

1. The U.S. proposed and accepted a subsidy code that specifically requires an injury test prior to countervailing.

2. The U.S. has agreed to expand Section 22 quotas on cheese to at least 111,000 metric tons annually. To temper the impact of this concession, all cheeses (except certain specialty cheeses) shall come under Section 22 quotas.

This Committee recommended that any significant increase in quotas, such as the one proposed, be phased in over a period of 1 to 7 years in order to permit adjustments in the U.S. dairy industry.

The expansion of cheese quotas currently envisaged do not call for a phasing in over several years.

3. Imports of cheese within the new quota will be allowed to enter this country through the use of export subsidies. Countermeasures shall be applied on subsidized quota cheese that undercuts U.S. wholesale prices.

Based on past experience, the Committee feels these restrictions may be administratively and politically infeasible. Price disciplines have not proven to be acceptable triggers for action in the past.

Legislation:

Since the trade negotiators have accepted a package containing important items contrary to the Committee's advice, the Committee recommends domestic legislation accompanying the MTN package include the following.

a) Specification of the agency that will administer the subsidy/countervailing duty code in the U.S.

b) A detailed procedure as to how proof of injury shall be determined.

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c) A procedure for forcing the administrative bureaucracy to move aggressively in a timely manner to countervail subsidized exports.

d) If the proposed MTN negotiation is approved, the economic impact of the added cheese quotas on the U.S. industry will be substantial and immediate. Since concessions were made to obtain significant gains in the non-dairy areas, the dairy industry should not bear the cost associated with these concessions while others reap the benefits of gains obtained from dairy concessions. Therefore, the legislation package should consider simultaneously to amend the Agricultural Act of 1949, to provide a level of price support for manufacturing grade milk, at not less than 80 percent parity, for the next three years.

Other Comments:

The Dairy Committee made a few requests for tariff reductions. Some concessions were obtained on products such as infant formula and evaporated milk. Although not a major consideration, these concessions are helpful.

The Committee reviewed the Standards Code, the Government Procurement Code and the Customs Valuation Code. The Committee also reviewed Codes on Import Licensing Procedures and Commercial Counterfeiting. It finds all of these codes acceptable.

In addition, the Committee has reviewed the International Dairy Arrangement and finds the one initialed by the U.S. to be acceptable. However the Committee continues to urge that no arrangement dealing with maximum prices be entered into by the U.S.. The Committee feels very strongly that in the formulation of the delegation to all councils set up by the Codes and the arrangements agreed to in the MTN, e.g., the International Dairy Arrangement, that there must be provisions by either the Executive or Legislative Branch of the U.S. government, that would insure the participation or provision for participation of private industry advisors to the U.S. delegation to this council.

The Committee recommends that if this legislation is passed by Congress, its provisions must be rigorously enforced and all necessary funds to insure such enforcement should be appropriated by Congress.

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The Committee welcomes this opportunity to make a final report of its views on the MTN implementing legislation pertaining to Dairy. This report was drafted by the following named members of the Committee and sent to all other members for their comments:

Richard E. Redmond, Chairman
Dairylea Cooperative, Inc.

Robert F. Anderson, Exec. Director
American Butter Institute and
National Cheese Institute, Inc.

Donald E. Ault
Director of Corporate Planning
Land O'Lakes, Inc.

Douglas Caruso, Manager
Farmers Union Milk Marketing
Cooperative

Alvert J. Ortego, Jr.
Dairymen, Inc.

Clifford Schumacher
American Milk Producers Institute

James E. Click, President
American Dry Milk Institute

Betty Patrick
Milk Producer and member of
American Agri-Women

June 18, 1979

Honorable Robert S. Strauss
Special Representative
for Trade Negotiations
1800 G Street, N.W.
Washington, D.C. 20506

Dear Mr. Ambassador:

On behalf of the Agricultural Technical Advisory Committee for Trade Negotiations on Fruits and Vegetables, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements initialed in Geneva April 12, 1979.

This report complies with Section 135(e) (1) of the Trade Act of 1974 which requires each sector advisory committee affected by a trade agreement made under authority of that Act, at the end of negotiations for each such agreement, to provide the President, the Congress, and the Special Representative for Trade Negotiations with a report on the agreement.

Sincerely,

Donald M. Rubel

Donald M. Rubel
Acting Chairman
Agricultural Technical Advisory Committee for
Trade Negotiations on Fruits and Vegetables

Enclosure

Interim* Report of the Agricultural Technical Advisory Committee for Trade Negotiations on Fruits and Vegetables on the Multilateral Trade Negotiations Agreements

I. MTN CODES OF CONDUCT

INTRODUCTION

The Fruit and Vegetable ATAC welcomes the development of the codes of conduct negotiated in the Tokyo Round. This is a step in the right direction. It recognizes the importance of non-tariff barriers to trade. These barriers have not been dealt with in the previous tariff negotiations. Moreover, the GATT has been unable to make progress in removing or liberalizing non-tariff barriers to trade.

SUBSIDIES AND COUNTERVAILING DUTIES

The importance of measures designed to prohibit or limit the use of subsidies in export trade is recognized. We are told that the subsidies code is the best that could be negotiated, although it sanctions the use of subsidies in certain instances.

This code requires proof of injury to U.S. producers if countervailing duties are to be applied against foreign subsidies. With the experience that fruit and vegetable producers have had in the past in demonstrating injury, it seems likely that the code could disadvantage U.S. horticultural producers. In other words, the code sanctions certain subsidies by foreign producers and requires U.S. producers follow procedures which are difficult, if not impossible, to provide countervail action against foreign subsidies.

SAFEGUARDS

The objective of the draft safeguards code as initially proposed is sound. However, the Committee does not agree that the developing countries should receive special and differential treatment. In other words, safeguard action should be invoked without discrimination. Also, the Committee recommends that in such a code the definition of perish-

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*This is the report as of June 12 based upon information known by the Committee at that time. Examples of further information that the Committee needs to draft a final report are: complete information on tariff concessions by all countries; fully negotiated codes of conduct; and, full information on country negotiations not yet completed with special reference to Mexico.

able agricultural commodities should be "as defined in the Perishable Agricultural Commodities Act of 1930*." This would clarify the definition proposed in the former code which is not acceptable.

STANDARDS

We favor the objectives of this code--to assure that technical regulations and standards should not create unnecessary obstacles to international trade, to provide for open procedures and public participation in standards development.

We oppose code provisions which require adherence to international standards in settlement of disputes.

We would be opposed to any interpretation of the code which would undermine the USDA's phyto-sanitary requirements designed to protect plant life or health and the FDA standards designed for consumer protection.

The existence of an international standard, which is usually a minimum standard, does not mean that its specifications are "appropriate" in a particular country. For example, the U.S. Food and Drug Administration has attached one or more "specified deviations" to each of the Codex Standards accepted and implemented in the United States. Strict adherence to the Code would not permit this.

The ATAC believes that the best way to resolve difference in professional judgment, as in the case of food standards, is through bilateral discussions. The Code provisions for dispute settlement of such technical issues are not workable.

GOVERNMENT PROCUREMENT

The Fruit and Vegetable ATAC believes that the code should not apply to the purchases of foods.

CUSTOMS VALUATION

The Fruit and Vegetable ATAC supports the objective of the code on Customs Valuation--to establish uniform standards to be applied by customs officials in determining the value of imported products for the purpose of duty assessment. It will eliminate some controversial and

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*46 Stat. 531; 7 US Code Section 499a. The definition is as follows: "...The term 'perishable agricultural commodity'--(A) means any of the following, whether or not frozen or packed in ice: Fresh fruits and fresh vegetables of every kind and character; and (B) includes cherries in brine as defined by the Secretary in accordance with trade usages;..."

protective features of the customs valuation practices of our trading partners such as use of highest market price available as the customs value.

For the sake of uniformity, (with most of the rest of the world) the United States should also fix its customs valuation on a delivered basis.

II. FOREIGN CONCESSIONS AND U.S. OFFERS

The Fruit and Vegetable ATAC is generally satisfied with the foreign offers in response to U.S. requests for concessions on fruit and vegetable items.

The United States has offered relatively few significant concessions in the horticultural area. Concessions which were granted over our objections were those on potatoes and potato products, and on cut flowers. Other products initially offered in response to foreign requests in the horticultural area subsequently were deleted from the U.S. offer list.

We are disappointed over the depth of duty reduction given by the United States. For fruit and vegetable commodities, it exceeds that received; by a ratio over 2 to 1.

The overall ATAC view is based upon the status of the MTN as of June 10, which does not include a settlement with Mexico. From the outset, this committee has stressed the importance of achieving meaningful reciprocity with Mexico, particularly in the horticultural area. Furthermore, the ATAC view is predicated on the assumption that the U.S. successfully will prevent the introduction of any non-tariff barriers by foreign countries which will mitigate the value of the concessions granted to the United States in the MTN.

III. REORGANIZATION

The ATAC members were interested in the discussion of a reorganization of foreign trade functions in the Executive Branch and the suggestion that these functions be combined in a Department of Trade and Commerce. We oppose such an arrangement. In our view the interest of U.S. agriculture will best be served by a continuation of the present system in which all of the major U.S. interests have an opportunity to present their point of view to the President's Special Trade Representative.

National Council of Farmer Cooperatives
1800 MASSACHUSETTS AVENUE, N.W. • WASHINGTON, D.C. 20036 • TELEPHONE (202) 659-1525

19 June 1979

The President
The White House
Washington D.C. 20500

Dear Mr. President:

On behalf of the Agricultural Technical Advisory Committee for Trade Negotiations on Grain and Feed, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements initialed in Geneva, April 12, 1979.

This report complies with Section 135(e)(1) of the Trade Act of 1974 which requires each sector advisory committee affected by a trade agreement made under authority of that Act, at the end of negotiations for each such agreement, to provide the President, the Congress, and the Special Representative for Trade Negotiations with a report on the agreement.

Respectfully,

Glen D. Hofer

Glen D. Hofer
Chairman
Agricultural Technical Advisory Committee
for Trade Negotiations on Grain and Feed

Enclosure

GH/res

Report of the Agricultural Technical Advisory Committee for Trade Negotiations on Grain and Feed on the Multilateral Trade Negotiations Agreements Initialed in Geneva, April 12, 1979

The ATAC Committee notes that American wheat and feed grains producers have gained nothing in the negotiations to reduce the trade barriers maintained against their products by almost every country in the world, amounting in important cases to more than 100 percent of the price received by farmers for wheat, corn, and other grains. Neither have they gained any improvement in prices through an international wheat or grains agreement. Thus American grain producers remain among the most seriously injured of any producers in the world market and are further disadvantaged in comparison to grain farmers in other countries in that they receive almost the very lowest level of governmental price support in the world. Few Americans have more need to receive improvements in terms of international trade than American grain farmers, and the outcome of the negotiations, therefore, is a severe disappointment.

The Committee reviewed the proposed agreement segments dealing with Codes on Technical Barriers to Trade, Government Procurement, Licensing, and Customs Valuation. We found no grounds for opposing or suggesting improvements in any of the language submitted to our Committe for consideration.

In the Code for Subsidies and Countervailing Duties we find an area of higher potential impact on grain trade. Provisions in the existing Article XVI:3 of the General Agreement already require signatories to refrain from use of export subsidies in a manner injurious to export interests of another signatory. Those provisions have been notably ineffective in restraining an important grain exporting nation from aggressive and injurious use of a special Wheat Subsidy to move its excess stocks of wheat in a manner contrary to the spirit of the agreement.

The language of the Code on Subsidies does not remove the threat of unfair subsidy or other uneconomic pricing practices. The Committee continues to believe that anything short of total abandonment of such practices poses the risk of inhibiting the U.S. in its effort to maintain export markets without precluding the use by other exporting countries of direct or indirect subsidies.

In the matter of the International Grains Agreement, the failure of the negotiating countries to find a mutually satisfactory arrangement makes any final comment by the Committee unnecesary.

Recognizing that the results of the request-offer procedure for basic grains falls short of the Committee's original hopes and recommendations, we are of the view that, in light of the circumstances, the result obtained are acceptable.

Peter E. Marble
71 Ranch
Deeth, Nevada 89823
June 19, 1979

Honorable Robert S. Strauss
Special Representative
for Trade Negotiations
1800 G. Street, N.W.
Washington, D.C. 20506

Dear Mr. Ambassador:

On behalf of the Agricultural Technical Advisory Committee for Trade Negotiations on Livestock and Livestock Products, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements initialed in Geneva April 12, 1979.

This report complies with Section 135(e)(1) of the Trade Act of 1974 which requires each sector advisory committee affected by a trade agreement made under authority of that Act, at the end of negotiations for each such agreement, to provide the President, the Congress, and the Special Representative for Trade Negotiations with a report on the agreement.

Sincerely,

Peter E. Marble
Chairman
Agricultural Technical Advisory Committee
For Trade Negotiations on
Livestock and Livestock Products.

Enclosure

Report of the Agricultural Technical Advisory Committee for Trade Negotiations on Livestock and Livestock Products on the Multilateral Trade Negotiations Agreements Initialed in Geneva, April 12, 1979

1) The LTAC has consistently recommended a multilateral approach to reciprocal access and tariff reductions that would be implemented over a five year or longer period. The Committee's objective was to establish a condition of global free trade that is oriented to private enterprise-at market prices. For meats, the target was access that is equal to the greater 5 pounds per capita or 5% of each national market for beef and pork. (The same access was proposed for poultry although the latter was not within the Committee's advisory jurisdiction).

In general, the Committee urged eventual elimination of all governmental regulatory impediments to the international trade of meat, livestock and by products.

Had the foregoing approach been implemented by U.S. policy makers, the Committee believes that the additional U.S. potential for trade in meats and by products would have easily reached 10 billion dollars within the next five years. Bear in mind this outlook was predicated on the opportunity to ship as little as 1 pound of high quality poultry, pork and beef to the developed market oriented economies of the world.

2) Both the U.S.D.A. and Special Trade Representative's Office substantially rejected the advice of the Committee as unsound and impractical based on their perception of historical and political realities. Instead, the U.S. Government followed a program of limited bilateral negotiations which fundamentally sustain the rigid, unilateral protectionism that is associated with arbitrary quotas and high tariffs.

The net incremental "Trade Package" potential for U.S. livestock, meat and by products is estimated to not exceed 300 million dollars under the circumstances that the U.S. has agreed to.

3) The Committee believes there were moral, economic and humanitarian imperatives which relate to:

a) Necessary farm and business production incentives;

b) The adequacy of high quality consumer supplies at reasonable prices;

c) World food reserves and starvation

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which demanded a courageous insistance upon adoption of a gradual-but certain - redirection of farm, food and trade policy toward the principles of "comparative production/cost/price advantage," "market place economics" and "reasonable reciprocal trade."

Not surprisingly, while our trading partners were intransigent in their unwillingness to consider abandonment of unilateral protectionism, The Committee finds much greater fault with the broad spectrum of the U.S. Bureaucracy which at all levels failed to honestly and aggressively endorse the concepts of effective multilaterism, private market place economics and individual enterprise.

4) The Committee wants the record to clearly show that its' recommendations were in effect and substance rejected.

As a result, efficient, abundant, high quality U.S. Agricultural production and marketing potential will remain under utilized. Consumer supplies of meat and by products will be less and prices higher than otherwise could or should be the case. U.S. and world cyclical production and price will continue to fluctuate more violently and agonizingly both for producers and consumers than need be the case. And of course most unfortunate of all, those who have the least food will continue to exist with less than could otherwise be the case.

5) Further, the most incorrect aspect of the Trade Package is not the fact that that the Administration failed to obtain reasonable export opportunities for U.S. food and by products. The issue of true reciprocity was never seriously advanced. Real disappointment lies in the fact that the U.S. Livestock and Meat Industry continues to be threatened by:

a) Political manipulation of reasonable and stabilizing regulations of U.S. imports (i.e. the '64 Meat Import Law and Voluntary Restraint Program),

b) Unilateral reduction in U.S. tariffs (i.e. reduction in U.S. beef and wool tariffs, etc.) without concommitant concessions;

c) Over emphasis of U.S. feedstuff exports and the development of overseas processing facilities to the detriment of finished food and by product export opportunities (i.e. meat, leather, etc.) and

d) Unwillingness to demand trade conditions equal to those permitted industrial imports.

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6) Finally, the Committee is of the opinion that creation of a Cabinet level Trade Department is not necessary.

What U.S. farm producers and the food industry need is less government bureaucracy standing between themselves, the marketplace and consumer.

To be effective in the future, private sector Trade Policy Advisory Committees should be given the financial, organizational and staffing independence that will permit their judgements to be heard, responded to and implemented.

Enclosed please find additional attachments which reflect more specific attitudes of the Committee and it's individual members.

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January 15, 1979

MEMORANDUM

To: Members of Agricultural Policy Advisory Committee
Chairmen of Agricultural Technical Advisory Committee

From: Agricultural Policy Advisory Committee on Livestock and Livestock Products - Peter E. Marble, Chairman

Subject to continuing review and reconsideration of the Administration's completed trade negotiations and their final recommendations relative to trade liberalization, the Codes, the Meats Arrangement and changes in U.S. law, the Livestock ATAC offers the following observations and advises that as of January 11, 1979:

1) It reaffirms its previous trade policy advice as reflected by the attachments labeled Exhibit A.

2) That current drafts of the safeguards and subsidy codes are unsatisfactory and inimical to the best interests of the U.S. for the reasons stated in attachments labeled Exhibits B and C, and for other reasons.

3) The trade proposals associated with the Administration's so-called Trade Package do not represent significant, reciprocal or equitable liberalization of trade access relating to the products which are subject to advice of this ATAC.

4) Adoption of and participation in the proposed Meats Arrangement should be approved only if the sense of the following recommendation is incorporated into the Council's procedures:

   a) All proposals, studies and evaluations relating to trade liberalization and G.A.T.T. obligations shall be submitted to a panel of commerical livestock owners and operators for their advice before consideration by the Council.

   b) Each signatory to the Arrangement shall have the right to appoint up to 3 Advisors to a "so-called" Producer's Panel (to accomplish paragraph a). The Advisors must be qualified by reason of current commercial beef cattle ownership, management responsibility and nomination by representative producer organizations of each member participating country.

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5) The Marble letter to Agriculture Secretary Bergland dated January 9, 1979, on '79 Voluntary Restraints is attached for purposes of information. (Exhibit G)

6) The E.C./Japanese proposals for access of U.S. beef meats as reflected in attachments labeled Exhibits D, E, and F are offered under conditions that do not represent true grade liberalization either in terms of commercial practicalities or trade policy principles. By way of illustration, the net beef quota additionality guaranteed for U.S. exporters under these proposals would be approximately 11 million pounds or 1/25th of a pound per capita into the European Community beginning in 1980. Additional access for Japan approximates 31 million or one-third of a pound per capita to be gradually implemented through the year 1983.

The foregoing should be compared against the Committee's long-standing recommendation that equitable trade liberalization for U.S. producers and exporters should incorporate access for not less than one (1) pound per capita on a unilateral (U.S. Quota) basis or five (5) pounds on a general (World Wide Quota) basis. The inadequacy of the current E.C./Japanese offers must be further measured against the recent Presidential decision for 1979 to unilaterally grant over 300 million pounds of additional U.S. access for foreign beef imports in excess of the provision of the U.S. Meat Import Act. Trade liberalization for U.S. producers is lacking by a ratio of almost 10 to 1.

7) The Committee reiterates its position and repeated request that it be furnished in full detail the circumstances regarding the trade negotiations which affect all product and commodity sectors but particularly dairy, poultry, feedstuffs and related situations that directly bear on the economics of the products which are the technical policy responsibility of the ATAC.

8) The Committee advises that the international supply/demand situation for most agricultural products but particularly meats will continue to favor a policy of orientation to market place economics as contrasted with complicated, restrictive government management schemes and so-called arrangements of "concerted disciplines," government production, price and market control.

9) The Committee advises against any extension waivers to the right to countervail during the M.T.N.

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10) Finally, other attachments labeled as follows reflect issues of continuing importance to the Committee. (Note: The LTAC approved submission of the foregoing text on January 12, 1979 subject to the priviledge of any Committee member to attach additional comment, exhibits, etc., which might bear on the inadequacy or benefit of current M.T.N. proposals, as time permits.)

/PEM
Attachments

RESOLUTION
FROM
AGRICULTURAL TECHNICAL ADVISORY COMMITTEE
ON
LIVESTOCK AND LIVESTOCK PRODUCTS

WHEREAS, Reciprocal trade access is the cornerstone of U. S. Agricul-
:al policy, and

WHEREAS, The U. S. meat and livestock industry consistently supports
ısonable guarantees of international market access and the elimination of
›itrary tariff and non-tariff barriers, and

WHEREAS, Particularly in consideration of large U. S. feedstuff surpluses,
:ld food shortages and malnutrition and the capacity, interest, and ability
the U. S. meat and livestock industry to profitably supply important quanti-
ɜs of product at prices significantly less than those prevailing in the major
ıt importing and consuming countries:

THEREFORE BE IT RESOLVED, That the Agricultural Technical Advisory Com-
ttee on Livestock and Livestock Products recommends strongly and without
ıivocation to the office of Special Trade Representative and all other U. S.
ɜncies and departments that share responsibility for development of trade
licy and improvement in trade conditions that every effort be continuously
plied throughout the GATT multi-lateral trade negotiations (Also known as
ɜ Tokyo Round) to:

A. Secure world-wide (all countries) access for all meat, by-products, and livestock in amounts that are not less than those reasonably equivalent to the access currently assured into U. S. markets.
B. Eliminate variable levies and other arbitrary restrictions on a reciprocal basis.
C. In the case of beef meat, to secure country-by-country access equivalent to not less than five percent of domestic production or five pounds per capita whichever is greater, and
D. Stage the guarantee of such access proportionately over a five-year or such other period as may seem reasonable.
E. Make it very clear that on account of world production, surplus, nutritional, reserve price, and other such factors it is of paramount importance to the U. S. that international questions relating to trade access for meat, by-products, and livestock be resolved within the time frame of the current M.T.N. and not some indeterminate period in the future.

ɜ foregoing is in no way intended to limit or abridge previously trade policy
:commendation from the ATAC on livestock, nor does the foregoing in any way
event future and continuing policy statements on any commodities represented
' the committee.

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ATAC on Livestock and Livestock Products Resolution on the Safeguard Code.

Adopted January 5, 1978

In the opinion both of the members of the Livestock Trade Advisory Committee and USDA analyst's, the proposed Safeguards Code would invalidate provisions of the U.S. Meat Export Act of 1964 and the use of the Voluntary Restraint Agreements.

The Committee recognizes that almost every meat producing country of the world with the lone exception of the U.S. has periodically embargoed trade in meats. Restraint in beef and meat trade has been wrongly and arbitrarily employed under the guise of "safeguard action" and the present provisions of GATT Chapter 19. These unfair and damaging actions have been particularly true of Japanese and European trade policy.

The LTAC agrees that the Safeguards Code should be strengthened to prevent unilateral avoidance of reciprocal trade responsibility in matters such as guaranteed access and elimination of tariffs.

However, until such time as the Western European, Japanese and other major beef producing and consuming countries agree to a proceedure for continuous access, tariff/levy/licensing elimination and an orientation to "market prices" that is in harmony with the U.S. Meat Import Act, the Voluntary Restraints and reciprocal policies of free-er trade:

THE U.S. BEEF, MEAT AND LIVESTOCK INDUSTRY SHOULD NOT BECOME BOUND BY THE PROVISIONS OF THE PROPOSED SAFEGUARDS CODE OR ANY COMMITMENT WHICH WOULD HAVE THE EFFECT OF INVALIDATING THE INTENT OF THE MEAT IMPORT ACT OR THE ABILITY OF THE U.S. TO RESPOND TO THE REALITIES OF THE INTERNATIONAL MEAT TRADE IN A RECIPROCAL MANNER.

The Livestock T.A.C. will be most appreciative of an acknowledgement and response from both the U.S.D.A. and S.T.R. as to the acceptability and implementation of the foregoing recommendation.

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Exhibit A

SUMMARY

POSITION OF ATAC FOR

LIVESTOCK AND LIVESTOCK PRODUCTS

June 14, 1978

KGROUND

The product interests of the Committee cover over 1,000 tariff ms including tallow, mink skins, leather, wool, meats, frogs, hor- and pharmaceuticals.

ERAL NEGOTIATING OBJECTIVES

(1) Parity of access among raw, processed or prepared (finished) . agricultural products. An orientation to market prices that is estricted by arbitrary protectionism.

(2) International access for commodities of animal origin equal not less than 5% of any domestic market (based on production and/or sumption figures). This includes beef, lamb, pork, poultry and of- . In the case of U.S. high quality beef, the U.S. access request is one pound per capita to be implemented over a five-year period at rate of one-fifth pound per year.

(3) Elimination of export subsidies, government price and supply agement, dumping or any other practice which disrupts the private ket place.

(4) Consumer access to world food and by-product supplies at ket prices. Utilization of bi-lateral supply arrangements, and velopment of "nonmarket" country as well as LDC relationships.

(5) The U.S. should restrict imports to the extent that is neces- y to protect against a) dumping, b) the destruction of cost-price petitive domestic enterprise and c) the nonreciprocal realities of ernational trade practice.

(6) Utilization of surplus feedstuffs, the development of inter- ional food reserves and food producing potential should be encour- d by increasing market opportunities for meat products. Livestock

d/or meat represent the most efficient means of maximizing nutri-
cnal resources and food reserves.

GOTIATING OBJECTIVES FOR LIVESTOCK, MEATS AND ANIMAL BY-PRODUCTS

(1) The specific E.C./Japanese global (open to all suppliers)
cess objective for beef meat should be the greater of 5% of foreign
tional production or 5 pounds per capita - implemented over a 5-year
riod at world market prices. Access for other meats should be se-
ted in proportion. The minimum U.S. E.C./Japanese access objective
ould be one pound per capita of choice/restaurant quality beef meat.

(2) Access for leather, mink skins, processed animal fats or any
ished or manufactured animal product - as well as breeding and
ry animals - should be equal to that accorded live, raw or unproc-
ed agricultural products.

(3) The U.S. should limit participation in G.A.T.T. or bi-lateral
eements to those which provide for reciprocal access at market
ces and establish procedures for resolution of collateral agricul-
al issues.

(4) The U.S. should take the lead in calling for world access
:

a) is global versus bi-lateral - premised on principles incorporated within the U.S. Meat Import Act and Voluntary Restraint Agreements;

b) is oriented to trade equality between processed or finished products and feedstuffs or live animals;

c) is free from governmental supply/price market regulation as differentiated from farmer income supplementation schemes;

d) rejects the present GATT/MTN negotiating protocol and Secretariat management both of which favor the old unworkable solutions of the past, the status quo and national protectionism.

(5) The denial of access to agricultural raw materials by a
ry should be considered a subsidy on the export of processed agri-
ral products derived from that raw material and subject to coun-
iling measures.

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. OFFERS AND REQUESTS

. In certain instances U.S. offers that have been tabled do not ee with the recommendations of the Committee: The tariff reduction the fresh, chilled and frozen beef items 106.10 and 106.20 did not lude the conditions stipulated. Our recommendation on offers on e items was that no offers were to be made unless they were con- ned on concomitant granting of access for these items by the E.C. Japan. The Committee unanimously urges that unless our conditions reinstated, the offer be withdrawn. Similarly, our recommendation t tariffs on finer wool, tariff items 306.31 through 306.33, not be otiated has been ignored. The Committee requests that offers on se wool items be withdrawn.

Following the review of the U.S. offers to other countries and ir responses to us, as presented, we believe that in view of the ally inadequate responses from other countries to U.S. requests as pared to the generous U.S. offers, and the evidence that other ntries are not taking the negotiations seriously with respect to of- ing meaningful concessions, we wish to reemphasize the previous ommendations of this Committee which have been submitted to you. also wish to recognize and express agreement with the statement by , that if the United States does not obtain reciprocity and some- ng meaningful for agriculture you will withdraw U.S. concessional ers. We wish to restate to you our support for your publicly ted position. The above was agreed upon unanimously.

EGUARDS CODE

While favoring measures to insure against arbitrary market pro- tionism and while supportive of safeguard obligations that guarantee sonable minimum levels of market access, the Livestock Technical isory Committee recommends against acceptance of any modification safeguards that would prevent application of the U.S. Meat Import , implementation of V.R.'s or the flexibility of reasonable response inst dumping export subsidization as provided under Section 204 of Agricultural Act of 1956.

The LTAC specifically requests that developing countries not be nted special treatment under a proposed safeguard code.

NDARDS CODE

The LTAC supports in general the government objectives outlined its presentation paper. However, the Committee reserves the right further define the technical implementation as more information is ived

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SIDIES CODE

The LTAC finds that in principle the use of subsidies for any pose, particularly in the export of agricultural products, is wrong- and injurious to the best interest and stability of private enter- se, and to least cost advantage in production and marketing. No angements which limit the right to countervail against or prevent export subsidization in the meat/livestock/animal or by-products tors should be permitted. The LTAC does not oppose some accommoda- n to trade in agricultural subsidized products which are the subject international agreements in which there is specific provision for ort subsidization.

ERNMENT PROCUREMENT CODE

The LTAC opposes U.S. participation in the government procurement le. Among the reasons for the Committee's objection are:

(1) The dangers implicit in the implementation of the code far weigh the possible benefits to members of the industries represented this TAC.

(2) The size of the possible benefits is one-sided to the detri- t of U.S. industries.

(3) The difficulties of achieving open procedures in most coun- es seem insurmountable in their practical applications.

(4) The threshold values contemplated offer no protection to U.S. pliers but could practically eliminate U.S. access to many foreign ernment procurements.

(5) Specifically, woolen clothing and leather products made from commodities produced by some of the members of this TAC would be ced in severe jeopardy by the code obligation.

TOMS VALUATION CODE

The proposed changes under this code can have severe implications the woolen products manufactured from the wool supplied by members this TAC. Special provisions should be included in the code to ad- ss the needs of this industry.

ANGEMENT ON BOVINE MEAT

The TAC has been following the developments regarding the proposed t agreements. So far, however, insufficient information is avail- e on which to base recommendations.

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Exhibit B

JBJECT: Safeguard Code

REPARED BY: P.E. Marble, Chairman, Agricultural Trade Advisory Committee on Livestock and Livestock Products

pinion: Implementation of the January 10th S.T.R. presentation on the Safeguard code would be adverse to the U.S. Beef Cattle and Meat Industry. The beef sector should be excluded from the Code for the following reasons:

(1) The U.S. is unique amongst all other trading nations. It is both the largest producer and largest importer of meat (particularly beef) products. Remedial provisions of this Code simply do not fit the realities of existing and anticipated domestic marketing conditions.

(2) The largest potential markets for U.S. Fed beef (i.e. E.C., Japan and many L.D.C. centers of tourism) are oriented (dominated) by government management and subsidy programs on the one hand. The U.S. meat and livestock industry operates virtually without government, market, production, or price controls. On the other hand, a situation is created under the proposed Safeguard rules whereby it would be virtually impossible to justify U.S. access into any of the important foreign consuming areas on account of the interference that would be cause to foreign subsidy intervention buying, storage and other such programs.

(3) Safeguard relief for U.S. livestock producers would be difficult because:

(a) Imports must be shown to be the "principal" cause of injury. The criteria necessary to prove injury are very similar to those now required by I.T.C. under Sec. 201 of the Trade Act of 1974. It has been amply demonstrated in previous cases that these criteria are not appropriate for the livestock sector and as a result, injury is almost impossible to prove. (See Chapter 1, Pages 5 & 6).

(b) Required proof of injury must relate to increases in imports irrespective of producer's financial condition.

(c) Investigations and findings of injury are vested with each signatory's own "domestic agency." No other meat exporting country has fact finding, investigative or impartial procedures for determining injury as does the U.S. (i.e. I.T.C.). There is no assurance of the development of foreign procedures under the Code which would assure equity and fairness for U.S. producers.

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(4) The Code incorporates a bias favoring tariff increases and discouraging the kind of quantitative regulations (footnote - page 10) that is provided under the existing U.S. Meat Import Act and U.S. Voluntary Restraints. Paragraphs 1 and 2, page 11 would disallow the U.S. Meat Import Act.

(5) There is no mention or provision within the Code that guarantees the permanancy that recognizes the legitimate applicability of the U.S. Meat Import Act in fact or principle.

Exhibit C

BJECT: Subsidies (and Anti-Dumping Code)

EPARED BY: P.E. Marble, Chairman, Agricultural Trade Advisory Committee on Livestock and Livestock Products

inion: Implementation of the January 9th S.T.R. presentation on the Subsidies code would be adverse to the U.S. Beef Cattle and Meat Industry. The meat sector should be excluded from the Code for the following reasons:

(1) The Code validates and promotes the concept of subsidies and government regulation of agriculture. (E-1 & 4, pages 15 & 16).

(2) Injury relief of reasonable domestic stabilization would be denied to U.S. producers by virtue of being unable to prevent entry of subsidized products unless:

(a) Import prices undercut local market prices (D-3, page 15), or

(b) Imports secure more than an "equitable" share of the (U.S.?) market (D-1 & 2, page 14), or

(c) Imports could be proved to create greater injury than other (domestic) circumstances of market disturbance. (See F pages 9-11, notice 1,2,3 & 5) and (A-1 footnote 2, page 3)

(3) The relief procedures could prevent reasonable G.A.T.T. remedies from injury for over a year and as a result create irreparable injury. (paragraph 14, page 5).

(4) U.S. producers of unsubsidized production could be denied E.C./Japanese and other country access on the grounds of constituting injury (interference) with foreign support programs. F.4. and related paragraphs, pages 9-11).

(5) L.D.C.'s would not be bound by the general subsidy prohibitions on the one hand (i.e. low quality exports) but could prevent U.S. importations of high quality U.S. fed beef on the other. (2,4 & 6, page 21).

(6) U.S. unilaterally imposed safeguards against foreign subsidies would be practically and effectively prevented by VII 1, page 22.

(7) There has been a failure to develop an illustrative list of export and production subsidies that would not jeopardize the right of the U.S. meat industry and cattle producers to develop export market. (Page 25 Annex A - see asterisk note).

(8) The Code would impose a stifling layer of International regulation and bureaucratic procedure which would eventually eviscerate the private market place orientation of U.S. Agriculture and the cattle, pork, lamb and poultry sectors particularly.

HIGH QUALITY BEEF EXHIBIT D

1. The EC agrees to establish a tariff line for high quality beef at a fixed 20 % ad valorum duty (levy free). This beef shall be defined by either of the two following definitions (subject to verification) and certified to by exporting country

i) Beef quarters, wholesale cuts, boneless primal and subprimal cuts or portioned steaks from carcasses possessing the following characteristics :

A) Minimum external white fat covering over the ribeye muscle at the 12th rib of .4 inch to .9 inch.

B) Carcass weight of 600 to 850 pounds.

C) Minimum ribeye area at 12th rib - 9 square inches.

D) Maximum Age — 30 months. Carcass must have no visible ossification of cartilage buttons over tips of spinous processes associated with the 1st through 11th thoracic vertebrai.

E) Minimum intermuscular fat intermingled in lean of longissimus (ribeye) muscle at the 12th rib as shown by photographic standard (equivalent to modest or fat content of lean of 6.0 minimum, wet tissue basis, for longissimus). NOTE : This will not apply to other muscles of carcass.

F) Color : Lean must be a bright, cherry red color at time of cutting of carcass.

G) Fresh chilled carcasses or cuts must be at a temperature (internal of ribeye muscle) of less than 1 degrees C when packed for shipment.

ii) Carcasses or any cuts from cattle not over 30 months of age which have been fed for 100 days or more on a nutritionally balanced, high energy feed concentration ration containing no less than 70 percent grain, and at least 22 pounds total feed per day.

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It should be noted that U.S. beef which is graded USDA choice or prime will automatically meet the definition of one of the above.

2. The level of import under this tariff line shall not be quantitatively limited. However, if import levels reach a level which disturb the E.C. internal market the U.S. delegation agreed to enter in consultations in order to resolve the situation.

Exhibit E

BEEF

The two Governments will exert mutual efforts to exploit the demand for high-quality beef with a view to realizing by JFY 1983, within the hotel and general quotas, an increase in import by 14,000 tons on a global basis in accordance with the following schedule:

JFY 1980	4,000	
JFY 1981)		
JFY 1982)	10,000	(to be disturbed approximately
JFY 1983)		equally each year)
Total increase	14,000	

The Japanese Government will endeavor, on its part, for the realization of the said increase in import, to facilitate the import of high-quality beef, based on the definition of high-quality beef and import facilitation measures as agreed on in April 1978.

In case a demand is created over the levels mentioned above through the efforts of export dealers for the exploitation and expansion of demand for high-quality beef, the import of high-quality beef over the said levels shall not be hindered.

The two Governments will evaluate near the end of JFY 1982 the patterns of importation and demand for high-quality beef as defined above. Based on this evaluation and the prospects for the future demand-supply relationship for beef, the Japanese Government will consult with the United States Government on ways to further expand the importation of high-quality beef in 1984 and thereafter to the mutual benefit of both countries. Further such consultations will be scheduled during the course of Tokyo Round implementation period on a biennial basis.

Exhibit F

FRESH CHILLED AND FROZEN BEEF

The U.S. agrees to operate its import system of fresh, chilled and frozen beef in such a manner as to allow access for 5,000 M.T. of E.C. beef from member countries free of foot and mouth disease. The E.C. will administer the allocation of this amount to member states.

Exhibit G

Peter E. Marble
71 Ranch
Deeth, Nevada 89823
January 9, 1979

The Honorable Bob Bergland
Secretary of Agriculture
United States Department of
Agriculture
Washington, D.C. 20250

Dear Mr. Secretary:

The President's recent directive to the U.S.D.A. and State Department on '79 beef importations demonstrates an outrageous disregard for U.S. beef producers, consumers, the law and market oriented enterprise.

The Department and the White House have again "played politics" at the cost of common sense and sound economics. The ultimate consequences of the June and December decisions to manipulate imports in excess of equitable legislated formulations and the November veto will ultimately discourage production, raise prices, weaken the U.S. Agricultural complex and make Americans more dependent upon costly, low quality foreign production.

The whole circumstance of the announced '79 voluntary restraints repudiates and undermines the MTN negotiating process for U.S. agriculture. Equal market sharing opportunties for U.S. farmers continues to be put down. Recent V.R. increases without the exchange of one single E.C. or Japanese Agricultural trade concession of consequence is ruinous to the American system of private farm enterprise.

The precedent of imposing periodic bureaucratic manipulation on an industry whose cycles of decision making and production are of ten year average duration is absolutely suicidal for the continuance of independent farmer enterprise.

It almost goes without saying that the main issue at hand, is that of stabilizing future market prospects so that domestic livestock producers are assured reasonable long term returns, and thereby, encouraged to maintain optimum numbers.

Literally adhered to, the formulations under the '64 Meat Act does just that. The recently vetoed amendment would have done it better. White House disregard of legislated formulations in the face of continued high levels of U.S. per capita meat production and inflation coupled with absolutely no compensating opportunities to export pork, beef, chicken or feed stuffs is the ultimate in bad judgement.

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By its pursuit of cheap food, wide open imports, countenance of E.C./Japanese quota's, subsidies, tariffs and embargoes against U.S. finished agricultural products, the U.S. is playing a game in which the outcome will be the predictable disaster of reduced supplies, high consumer prices and farmer bankruptcy.

Further, it is my opinion that current Administration efforts to obligate foreign suppliers to fill '79 V.R. entitlements will additionally reduce future beef supplies to the long run detriment of American consumers and a stabilized market oriented agriculture.

Sincerely yours,

Peter E. Marble, Chairman
Livestock Trade Advisory
71 Ranch
Deeth, Nevada 89823

PEM/kf

cc: Hon. Al Ullman, Chairman, Committe on Ways and Means
Hon. Charles Vanik, Chairman, Foreign Trade Subcommittee, Committee on Ways and Means
Hon. Russell Long, Chairman, Senate Finance Committee

July 10, 1979

Honorable Robert S. Strauss
Special Representative
for Trade Negotiations
1800 G Street, N.W.
Washington, D.C. 20506

Dear Mr. Ambassador:

On behalf of the Agricultural Technical Advisory Committee for Trade Negotiations on Oilseeds and Products, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements initialed in Geneva April 12, 1979.

This report complies with Section 135(e)(1) of the Trade Act of 1974 which requires each sector advisory committee affected by a trade agreement made under authority of that Act, at the end of negotiations for each such agreement, to provide the President, the Congress, and the Special Representative for Trade Negotiations with a report on the agreement.

Sincerely,

William W. Goodrich
Chairman
Agricultural Technical Advisory Committee
for Trade Negotiations on Oilseeds and
Products

Enclosure

50-151 O - 79 - 41

Report of the Agricultural Technical Advisory Committee for Trade Negotiations on Oilseeds and Products on the Multilateral Trade Negotiations Agreement initialed in Geneva, April 12, 1979

The Committee has reviewed the offers made by the United States and offers received on oilseeds and products and the codes developed in the Multilateral Trade Negotiations (MTN).

We have concluded that the Codes that have been agreed upon and the proposed domestic legislation to approve and implement the trade agreements are balanced documents that we can endorse. We believe that they will facilitate the expansion of international trade and will help to identify and to eliminate unfair practices that hinder export and import commerce.

More specifically, we have these observations about the Codes.

Subsidies and Anti-Dumping Code. The major problem we see with this Code lies in the failure to agree on what constitutes an unlawful subsidy. While the industrial examples provided should prove useful, the whole concept remains somewhat obscure and could breed serious problems. For example, one of the signatories could challenge domestic support programs or concessional export credit programs of the United States as unlawful subsidies. While we could argue that these programs did not meet the definition of a subsidy, the dispute settlement mechanism could be set in motion and a committee of persons drawn from countries other than the disputants could report its findings. If adverse to the United States position, this Nation could, of course, refuse to accept the judgement of the committee, but we would be labeled as having granted an unlawful subsidy. This seems to place at risk of condemnation by an international group important agricultural policies adopted by the Congress.

Second, the special rule for developing countries may raise special problems in our agricultural sector. Our major competitors in world markets are Brazil, Malaysia, and the Philippines--all developing countries. In the area of oilseed and oilseed product trade, these countries should be regarded as developed countries. While we have been assured by the STR people that soybean oil and soybean meal from Brazil, palm oil from Malaysia, and coconut oil from the Philippines are regarded as primary agricultural products, there could

be an argument about these classifications. For example, Malaysia, if it signs the Code, could claim that palm oil is sufficiently processed to be a non-primary product. With regard to non-primary products, the Code's rules for developed and developing countries differ. The Code contains special rules on export subsidies on non-primary products, if the exporting developing country signatory has agreed to reduce or eliminate export subsidies and has not caused serious prejudice to the trade or production of another signatory. This rule is less strict than the general prohibition on export subsidies on non-primary products applicable to developed countries. In contrast both developed and developing countries are bound by the obligations concerning export subsidies on primary products.

Third, the definition of "injury" requires an examination of the effect of subsidized imports on prices in the domestic market of "like" products, meaning products that are identical. Yet the subsidization of exports of butter would seriously injure the market for vegetable oil used in competitive margarine; and the subsidization of dry skim milk for feed use would injure the market for soybean meal and feed grain. "Like" products should include those that are substitutable or have like use.

Fourth, while the Code and the U.S. implementing proposal attempt to shorten the periods of investigations and for imposing provisional and permanent corrective measures, the times are too long to help with agricultural products that must be promptly marketed.

Fifth, there is an agreement not to grant an export subsidy on any agricultural commodity in a manner that results in acquiring more than an equitable share of the world export trade. The determination of an equitable share, despite the definitions attempted, will remain difficult. Some countries have gained their share of world markets through extensive use of subsidies.

Sixth, the dispute settlement mechanism calls for committee and panel proceedings. The issues in subsidization are likely to be highly political, thus diminishing the usefulness for these procedures and requiring ultimately some high level political negotiation between the parties, perhaps overseen by a similar political committee for all the signatories.

We are pleased to note that the Code recognizes the implications of subsidies in the third markets, and that it exhorts signatories to be cautious in how they use direct and indirect subsidies.

International Standards Code. This Code provides an important mechanism for identifying regulations that ostensibly establish standards but actually serve as non-tariff barriers to trade. The Committee certainly endorses this objective, but has serious reservations as to the effectiveness of the dispute settlement procedures when arrayed against legislative or executive action by a country charged with a violation.

We also have reservations regarding the dispute settlement provisions that for all practical purposes, exclude representatives of the private sector from serving on panels and the Committee even though such individuals are directly affected by the practices being dealt with and may be best qualified to evaluate them.

The obligation for the United States to participate in the development of international product standards and to apply such standards to Federal and State agencies and to the private sector gives us concern, even with the assurance from STR that our participation in international standardization would be limited and that such standards would only be applied domestically where appropriate.

Further, we see no advantage in mandating an annual international meeting on standard-making or for the routine submission of all standards proposed or adopted in all signatory nations. This would simply create and nourish an unnecessary and costly international bureaucracy of little or no value in achieving the Code's objectives.

We note that the domestic legislation proposed to implement this Code focuses upon standards-related activities that create unnecessary obstacles to foreign commerce; contains a disclaimer of any intent to prohibit standards that do not create unnecessary obstacles to trade; protects standards in the United States that are necessary for the protection of human health or safety, animal or plant life or health, essential security interests, the environment, or the consumer; specifically requires consideration and the use of international standards only where they are appropriate; limits the roles of the technical offices and the standards information center; and provides for meaningful representation of United States' interests before international standards organizations. The provisions providing remedies regarding standards-related activities are reasonably restricted to those activities that have significant trade effect by creating unnecessary obstacles to foreign commerce.

Government Procurement. We have no basis to comment on this Code because we have seen no analysis of what the United States is gaining in exchange for a very substantial opening of its own procurement practices. A Code of this sort setting aside the Buy-America ethic should be justified by access to and sales in markets that compensate for the loss of government markets here at home.

Customs Valuation. We endorse the direction taken and the results achieved in developing a Code for Customs Valuation. The various systems used to value imported goods by the Customs Services of the world have frequently been serious impediments to trade. In some cases this was as the result of arbitrary uplifts and in others the result of technical procedures which generated customs values with little relationship to the commercial value of the goods concerned. This agreement is a positive step.

Offers and Requests. Finally, with respect to the offers and requests we conclude that the interest of the United States has been served by maintaining the zero duty binding on soybeans and meal in the EC and by obtaining zero binding status for soybeans to Japan and peanuts to the EC. We have had a temporary zero duty status for soybeans in Japan for several years. In short, we lost nothing and preserved this favored status on a more secure basis. We regret that the same zero duty binding status on soybean oil and soybean meal was not obtained in Japan.

We oppose the U.S. import duty binding on palm oil for edible use at 1/2¢ per pound.

We note that our advice to harmonize U.S. import duties with Canada for specific vegetable oils at 9 percent or 2¢ per pound, whichever is greater, did not receive favorable consideration.

We recommend that the rates of duty for soybeans, flaxseed, and sunflowerseed negotiated with Canada be placed into effect at the earliest possible time, i.e., within two years.

July 10, 1979

POULTRY AND EGG INSTITUTE OF AMERICA

1815 N. Lynn Street, Suite 801 ● Arlington, VA 22209
Telephone: (703) 522-1363

Don C. Beaver, Pres.
Lee Campbell, Exec. V.P.
Richard I. Ammon, V.P.
Paul Korody, V.P.

June 13, 1979

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

Dear Mr. President:

On behalf of the Agricultural Technical Advisory Committee for Trade Negotiations on Poultry and Eggs, I hereby transmit the Committee's report on the trade agreements negotiated under the Trade Act of 1974.

This report complies with Section 135(e)(1) of the Trade Act of 1974 which requires each sector advisory committee affected by a trade agreement made under the authority of the Act, at the end of negotiations, to provide the President, the Congress, and the Special Representative, for Trade Negotiations with a report on the agreement.

Sincerely,

Lee Campbell
Chairman
Agricultural Technical Advisory
Committee for Trade Negotiations
on Poultry and Eggs

SCIENTIFIC RESEARCH
ENGLAND
GERMANY
JAPAN
HONG KONG
OVERSEAS OFFICES

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Final Report

FROM: Agricultural Technical Advisory Committee for Trade Negotiations on Poultry and Eggs

Lee Campbell, Chairman

The Committee has been asked to provide its views on the trade agreements negotiated under the Trade Act of 1974.

First of all, one of the arguments put forth to the ATAC is that the number of concessions received on poultry and eggs by the United States far outweighs the number given. This argument is fallacious because in earlier negotiations the United States has given away most all barriers or tariffs on poultry and eggs. The Committee stresses, therefore, that this matter must be viewed entirely in the context of what has now been offered to the United States. There is no valid comparison between offers and requests in these negotiations.

The Committee is very disappointed as far as the concessions the U.S. was able to obtain, particularly as it relates to the European Community. The EC has engaged in a two-edged unfair trade competition and trade protectionism which the U.S. poultry and egg industry has borne the brunt of since 1962. That industry has every right to be disappointed in the results of the MTM.

In one instance, it appears that the U.S.—as part of its package—has obtained agreement from the EC that it will not reclassify uncooked seasoned turkey to make it eligible for the gate price, variable and supplemental levies instead of a fixed ad valorem duty. In essence we are paying for a concession obtained earlier.

We are also assured of a new coefficient for use in calculating the gate price on turkey and that the EC will operate the levy system to insure that the system will not negate the new coefficient.

Nothing has been obtained for chicken and egg products in the EC.

The most interesting code to this Committee is the Subsidies Code. We have repeatedly urged that every effort be made to do away with subsidies which allow trading partners to compete unfairly against U.S. poultry and egg products. The EC, particularly, has not only engaged in practices which wall-out shipments to the EC from third countries, but it has used subsidies to compete unfairly in markets around the world.

The Subsidies Code does not, in itself, solve the problem that concerns us, but it, perhaps, offers a medium for solving the problem.

It is one thing to have a Subsidies Code, provided, of course, that other countries agree to it, but unless there is a method for making it incumbent upon the United States to utilize it, it is a worthless tool.

For example, Section 301 of the Trade Act provides ways of dealing with unfair trade practices of other nations but it has not been utilized.

The U.S. position on the Subsidies Code has been that phrases in the current GATT methods of dealing with subsidies are difficult to quantify. In particular, the phrase "equitable share of the market" has been all but impossible to define.

The concept under the code, would among other things, provide that subsidies would be prohibited when the use of any such subsidy displaces the trade of other countries in third-country markets or results in material price undercutting in such markets.

We do have some concern about how much easier the term "priced materially below" those of other suppliers to the same market is to define than "equitable market share". The real test would probably come through test cases if the code is implemented.

The Committee is especially concerned about an EC subsidy action which was announced before the ink was dry on the EC's signature subscibing to the Subsidies Code. Effective June 1, the EC began subsidizing chicken parts in addition to whole birds. In spite of the EC's expressed agreement to the Subsidies Code, we are again faced with their utter disregard for fair trading practices.

This clearly points to the need for the U.S. to take strong action and utilize the options available to it under the Subsidies Code. The Committee is hopeful that the Congress will make it clear to those responsible for U.S. trade policy its intent that prompt action should be taken by the Administration to counter any unfair subsidies paid to price poultry and/or eggs materially below those of other suppliers and thus take over U.S. markets.

The Government Procurement Code, as this Committee understands it, was devised essentially for industry, not for agriculture. Further, the Committee has been advised that it excludes all food procurement by the military and all food procurement by the U.S. Government for school lunch and other nutrition programs. This is deemed essential.

The Standards Code and the Safeguards Code are not found to be objectionable at this point. This Committee has been particularly concerned about restrictive licensing. It seems, however, that these two codes would open up procedures...the development of standards or safeguards...to public examination, as the United States does now.

In spite of our earlier comments, the U.S. poultry and egg industry would obtain concessions under the MTN agreement. If we are faced with recommending a yea or nay vote on the MTN agreement we would have to agree that our industry would be better off than before. We are disappointed, but at

the same time, we believe that what has been proposed would help maintain our exports to the EC and expand markets in other areas, such as Japan. We could not recommend opposition to the MTN agreement because it is either that or nothing. The poultry and egg industry of the United States has too long faced a completely deplorable situation, as far as trade barriers are concerned.

FRED W. VOIGT, Chairman BRITT A. DORSEY, Vice Chairman VIRGINIA BAKER, Executive Secretary

Georgia Agricultural Commodity Commission For Tobacc

"An Association supporting Georgia's flue-cured tobacco through research, promotion and education"

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WILLIAM M. NIXON
State Auditor
EMMETT REYNOLDS, President
Georgia Farm Bureau Federation

June 13, 1979

Honorable Robert S. Strauss
Special Representative
for Trade Negotiations
1800 G. Street, N.W.
Washington, D. C. 20506

Dear Mr. Ambassador:

On behalf of the Agricultural Technical Advisory Committee for Trade Negotiations on Tobacco, I hereby transmit the Committee's report on the Multilateral Trade Negotiations agreements initialed in Geneva April 12, 1979.

This report complies with Section 135(e)(1) of the Trade Act of 1974 which requires each sector advisory committee affected by a trade agreement made under authority of that Act, at the end of negotiations for each such agreement, to provide the President, the Congress, and the Special Representative for Trade Negotiations with a report on the agreement.

Sincerely,

Fred W. Voigt

Fred W. Voigt
Chairman
Agricultural Technical Advisory Committee
for Trade Negotiations on Tobacco

Enclosure

REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEE FOR TOBACCO ON THE MULTILATERAL TRADE NEGOTIATIONS AGREEMENTS INITIALED IN GENEVA, APRIL 12, 1979

NTB Codes

The Codes of primary concern to the Committee are those dealing with Subsidies and Countervailing Duties, Standards, and Government Procurement.

The Committee has reviewed these codes and believes they represent considerable improvement over existing GATT rules and procedures.

The Committee is unanimous in its approval of the codes.

Tariff Offers

The Committee has reviewed the tobacco tariff concessions offered to the United States and the concessions offered by the United States.

With regard to foreign countries' offers, the Committee unanimously recommends acceptance of:

1. Argentina: 24010080 - Tobacco other than wrapper and binder, oriental leaf and refuse - to reduce from 140 percent ad valorem to 50 percent and bind.

2. Australia: 2401210 - Tobacco for manufacturing cigarettes or fine-cut tobacco that will contain Australian-grown tobacco - to reduce from A$ 1.18 per kg. to A$ .472 per kg. and bind;

   2401220 - Tobacco for manufacturing tobacco products, other than those in 2401210, that will contain Australian-grown tobacco - to reduce from A$ .83 per kg. to A$ .332 per kg. and bind; to bind the required proportion of Australian-grown tobacco to be used in manufactured tobacco products at not more than 50 percent.

3. European Community: to bind its tariff rate on flue-cured, burley, Maryland and fire-cured tobacco at 23 percent ad valorem with a minimum duty of 28 units of account per 100 kgs. and a maximum duty of 30 units of account per 100 kgs.

4. New Zealand: 2401001 - Unmanufactured tobacco and refuse for manufacture in a licensed manufacturing warehouse into cigars - to bind presently unbound duty-free rate; 2401002- Unmanufactured tobacco and refuse for manufacture in a licensed warehouse into tobacco, cigarettes and snuff -

to reduce from $NZ 73.48 per 100 kgs. to $NZ 70 per 100 kgs., minus 25 percent of the CIF value over $NZ 360 per 100 kgs., minimum duty not less than $NZ 40 per 100 kgs., and bind.

5. Israel: 24021000 - Cigarettes - to bind present duty of 20 percent ad valorem.

6. Finland: 2401300 - Unstripped, flue-cured tobacco of the Virginia type; 2401400 - Unstripped tobacco, other than flue-cured tobacco of the Virginia type; 2401500 - Partly or completely stripped flue-cured tobacco of the Virginia type; 2401600 - Leaf tobacco, unmanufactured - to reduce from 0.28 marks per kg. to duty-free and bind, conditioned on U.S. offer on cheese.

7. Canada: 24011420301 - Tobacco, unmanufactured, unstemmed, other than Turkish - cut MFN duty from C$ .20 per pound to C$ .1275 per pound; 24011420401 - Tobacco, unmanufactured, stemmed, other than Turkish - cut MFN duty from C$ .30 per pound to C$ .20 per pound; 24011421001 - Converted tobacco leaf for use in manufacture of cigar binders - cut MFN duty from C$ .75 per pound to C$ .50 per pound; 24021431501 - Cigarettes - cut MFN rate from 25 percent ad valorem to 20 percent.

The Committee believes that the EC's, Australia's and New Zealand's offers will contribute significantly toward maintaining the United States shares of those markets, especially if the reductions are implemented immediately, rather than staged. The Committee recommends that U.S. negotiators seek immediate implementation of these reductions.

The Committee believes that Argentina's, Canada's, Finland's and Israel's offers probably will not have a significant impact on U.S. exports.

With regard to offers by the United States, the Committee hopes that the reductions offered on unmanufactured tobacco, cigars, and clove cigarettes have enabled U.S. negotiators to obtain reciprocal concessions of benefit to other sectors of American agriculture and industry. These offers are:

17001 Leaf tobacco products of two or more countries, mixed, not stemmed - cut MFN rate to 91 cents per pound.

17010 Wrapper tobacco, not stemmed - cut MFN rate to 36.4 cents per pound.

17015 Wrapper tobacco, stemmed - cut MFN rate to 61.9 cents per pound.

17020 Filler tobacco, mixed with over 35 percent wrapper tobacco, not stemmed - cut MFN rate to 36.4 cents per pound.

17035 Cigarette leaf, stemmed - cut MFN rate to 20 cents per pound.

17040 Filler tobacco, NES, including cigar leaf, not stemmed, not mixed - cut MFN rate to 15 cent per pound, conditional upon offer by Central American Common Market.

17045 Filler tobacco, NES, including cigar leaf, stemmed, not mixed - cut MFN rate to 20 cents per pound.

17065x Cigarettes, containing cloves - cut MFN rate to 42 cents per pound, plus 2 percent ad valorem.

17066 Cigars valued 15 cents or more each - cut MFN rate to 86 cents per pound, plus 4.5 percent ad valorem.

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