DEPOSITORY

THE BANK EXPORT SERVICES ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE

OF THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 6016

A BILL TO PERMIT BANK HOLDING COMPANIES AND EDGE ACT CORPORATIONS TO INVEST IN EXPORT TRADING COMPANIES AND TO REDUCE RESTRICTIONS ON TRADE FINANCING PROVIDED BY FINANCIAL INSTITUTIONS

APRIL 22; MAY 19 AND 25, 1982

Serial No. 97–78

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THE BANK EXPORT SERVICES ACT

THURSDAY, APRIL 22, 1982

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,

Washington, D.C.

The subcommittee met in room 2128, Rayburn House Office Building, Hon. Fernand J. St Germain (chairman of the subcommittee) presiding.

Present: Representatives St Germain, Annunzio, Minish, Barnard, LaFalce, Vento, Patman, Wylie, McKinney, Weber, McCollum, Lowery, and Wortley.

Chairman ST GERMAIN. The subcommittee will come to order.

Will the observers, guests please take their seats.

Today, the Subcommittee on Financial Institutions Supervision, Regulation and Insurance begins 3 days of hearings on the subject of export trading companies, with special emphasis on the provisions of H.R. 6016, the Bank Export Services Act, introduced on March 31, 1982, cosponsored by 25 members of the full committee, including 13 members of this subcommittee.

The recent history of export trading company legislation, a brief background treatment of the separation of banking from commerce doctrine of this Nation, a summary of projected increased trade prospects with accompanying estimated job creation potential if American ETC's are able to expand, both in number and activity, a summary of essential differences in the bank participation provisions of previous legislation, and the provisions of H.R. 6016 have been set forth fully in the floor statement accompanying the introduction of H.R. 6016.

That statement is attached and has been supplied to all committee members. Rather than reiterate that material, the Chair this morning would like to comment on the expertise of this morning's panel of witnesses and touch briefly on the events and survey procedures followed by the New England Institute.

The New England Congressional Caucus has traditionally through the years come together in caucus on issues of regional significance. Far more often than not, such political differences that may have existed from time to time have been subordinated to the best interests of the New England region.

The Caucus, in an effort to involve even more directly the citizens of our region in our consideration of regionalwide problems, created the New England Institute.

Our first two witnesses, Senator John H. Chafee, who is scheduled, unfortunately may not be able to make it because of a conflict in that he, too, has a subcommittee to chair over on the Senate side. However, I anticipate he will be submitting a statement.

Congressman Stewart B. McKinney, representing the Caucus, will introduce to the subcommittee institute witnesses who have given of their extensive talents and valuable time in an effort to create opportunities for expanded export trade activity for not only the New England region, but for the entire Nation.

Our witnesses are experts in their own areas of endeavor. Their herculean service as members of the institute's export trading company task force is deeply appreciated. Their considered opinion as to the promise of export trading company legislation, possibly justifying this major proposed breach in the Nation's separation of banking and commerce doctrine, will be invaluable to the subcommittee.

We are also pleased to have two additional New England witnesses, both potential users of the expanded permissive authority of pending ETC legislation: Mr. George Taylor, chairman of the board and chief executive officer of Cititrust in Bridgeport, Conn., and Mr. Alden Anderson, president of Hospital Trust, Providence, R.I.

On September 30, 1980, this subcommittee held hearings on export trading company legislation after passage of S. 2718. In addition to Departmernt of Commerce witnesses, we heard from representatives of the Bank of America and Citibank. There was concern before, during, and, frankly, after those hearings concluded on the part of the Chair and many of the members who attended as to whether the passage of the legislation would, indeed, cause a large number of medium and small banks as well as small manufacturers to participate in expanded export trading company activities.

Since H.R. 6016 deals entirely with bank involvement in ETC activity, I think it appropriate to have representatives of regional retail banks to advise the subcommittee of the projected use of the authority provided by H.R. 6016.

In conclusion, I find it refreshing to begin these hearings with witnesses such as this panel—witnesses who have thoroughly considered the issues and reached a consensus in a spirit of compromise and who are thoroughly knowledgeable in their own individual areas of expertise.

[The text of H.R. 6016 follows:]

97TH CONGRESS
2D SESSION

H. R. 6016

To permit bank holding companies and Edge Act corporations to invest in export trading companies and to reduce restrictions on trade financing provided by financial institutions.

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 1982

Mr. ST GERMAIN (for himself, Mr. REUSS, Mr. MINISH, Mr. ANNUNZIO, Mr. FAUNTROY, Mr. NEAL, Mr. PATTERSON, Mr. BLANCHARD, Mr. LAFALCE, Mr. EVANS of Indiana, Mr. D'AMOURS, Ms. OAKAR, Mr. BARNARD, Mr. LOWRY of Washington, Mr. SCHUMER, Mr. FRANK, Mr. WILLIAM J. COYNE, Mr. STANTON of Ohio, Mr. MCKINNEY, Mr. LEACH of Iowa, Mr. PARRIS, MR. WORTLEY, Mr. LOWERY of California, Mr. JAMES K. COYNE, and Mr. BEREUTER) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

---

A BILL

To permit bank holding companies and Edge Act corporations to invest in export trading companies and to reduce restrictions on trade financing provided by financial institutions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Bank Export
5 Services Act".

1 INVESTMENTS IN EXPORT TRADING COMPANIES

2 SEC. 2. (a) Section 4(c) of the Bank Holding Company
3 Act of 1956 (12 U.S.C. 1843(c)) is amended—

4 (1) in paragraph (12)(B), by striking out "or" at
5 the end thereof;

6 (2) in paragraph (13), by striking out the period at
7 the end thereof and inserting in lieu thereof "; or"; and

8 (3) by inserting after paragraph (13) the following:

9 "(14) shares of any company which is an export
10 trading company whose acquisition (including each ac-
11 quisition of shares) or formation by a bank holding
12 company has been approved by the Board, except that
13 such investments, whether direct or indirect, in such
14 shares shall not exceed 5 per centum of the bank hold-
15 ing company's consolidated capital and surplus. No ap-
16 proval may be granted by the Board under this para-
17 graph unless the Board has taken into consideration
18 the financial and managerial resources, competitive sit-
19 uation, and future prospects of the bank holding com-
20 pany and the export trading company involved and has
21 imposed such restrictions, by regulation or otherwise,
22 as the Board deems necessary to prevent conflicts of
23 interest, unsafe or unsound banking practices, undue
24 concentration of resources, and decreased or unfair
25 competition. Notwithstanding any other provision of

1 law, in any case in which a bank holding company in-
2 vests in an export trading company, such bank holding
3 company shall be deemed to be a member bank, with
4 respect to such export trading company, for purposes
5 of section 23A of the Federal Reserve Act, and such
6 export trading company shall be deemed to be an affili-
7 ate for purposes of such section, except that amounts
8 invested pursuant to the first sentence of this para-
9 graph shall not apply with respect to the limitations
10 imposed under section 23A of the Federal Reserve
11 Act. For purposes of this paragraph, the term 'export
12 trading company' means a company which does busi-
13 ness under the laws of the United States or any State
14 and which is organized and operated exclusively for
15 purposes of exporting goods or services produced in the
16 United States or which facilitates the exportation of
17 goods or services produced in the United States by un-
18 affiliated persons by providing one or more export
19 trade services. For purposes of this paragraph, the
20 term 'export trade services' includes consulting, inter-
21 national market research, advertising, marketing, prod-
22 uct research and design, legal assistance, transporta-
23 tion, including trade documentation and freight for-
24 warding, communication and processing of foreign
25 orders to and for exporters and foreign purchasers,

1 warehousing, foreign exchange, and financing, when
2 provided in order to facilitate the export of goods or
3 services produced in the United States. For purposes of
4 this paragraph, an export trading company (A) may
5 engage in or hold shares of a company engaged in the
6 business of underwriting, selling, or distributing securi-
7 ties in the United States only to the extent that its
8 bank holding company investor may do so under appli-
9 cable Federal and State banking law and regulations,
10 and (B) may not engage in manufacturing or agricul-
11 tural production activities. The name of the export
12 trading company involved shall not be similar in any
13 respect to the name of the bank holding company
14 which owns any of its voting stock or other evidences
15 of ownership.".
16 (b) Section 25(a) of the Federal Reserve Act (12 U.S.C.
17 611 et seq.) is amended—
18 (1) in the first paragraph of subsection (c), by in-
19 serting "(1)" after "(c)"; and
20 (2) by inserting after the first paragraph of subsec-
21 tion (c) the following:
22 "(2)(A) Notwithstanding any other provision of law,
23 with the approval of the Board of Governors of the Federal
24 Reserve System, a corporation organized under this section
25 may purchase and hold stock or other certificates of owner-

1 ship in any other corporation which is an export trading com-
2 pany. No approval may be granted by the Board under this
3 paragraph unless the Board has taken into consideration the
4 financial and managerial resources, competitive situation, and
5 future prospects of the corporations involved and has imposed
6 such restrictions, by regulation or otherwise, as the Board
7 deems necessary to prevent conflicts of interest, unsafe or
8 unsound banking practices, undue concentration of resources,
9 and decreased or unfair competition. No corporation orga-
10 nized under this section shall invest in such export trading
11 companies in an amount in excess of 25 per centum of its
12 own capital and surplus. The second proviso of paragraph (1)
13 shall apply to any corporation referred to in this paragraph.
14 "(B) Notwithstanding any other provision of law, in any
15 case in which a corporation organized under this section pur-
16 chases or holds stock or other certificates of ownership in any
17 other corporation which is an export trading company, such
18 acquiring corporation, or any bank or banking institution
19 which purchases or holds stock or other certificates of owner-
20 ship in such acquiring corporation, shall be deemed to be a
21 member bank, with respect to such export trading company,
22 for purposes of section 23A of this Act, and such export trad-
23 ing company shall be deemed to be an affiliate for purposes of
24 such section, except that amounts invested pursuant to sub-

1 paragraph (A) shall not apply with respect to the limitations
2 imposed under section 23A of this Act.
3 "(C) For purposes of this section—
4 "(i) the term 'export trading company' means a
5 company which does business under the laws of the
6 United States or any State and which is organized and
7 operated exclusively for purposes of exporting goods or
8 services produced in the United States or which facili-
9 tates the exportation of goods or services produced in
10 the United States by unaffiliated persons by providing
11 one or more export trade services; and
12 "(ii) the term 'export trade services' includes con-
13 sulting, international market research, advertising,
14 marketing, product research and design, legal assist-
15 ance, transportation, including trade documentation and
16 freight forwarding, communication and processing of
17 foreign orders to and for exporters and foreign purchas-
18 ers, warehousing, foreign exchange, and financing,
19 when provided in order to facilitate the export of goods
20 or services produced in the United States.
21 "(D) For purposes of this subsection, an export trading
22 company—
23 "(i) may engage in or hold shares of a company
24 engaged in the business of underwriting, selling, or dis-
25 tributing securities in the United States only to the

1 extent that the corporation which is organized under
2 this section and which invests in the company defined
3 in this clause may do so under applicable Federal and
4 State banking law and regulations; and
5 "(ii) may not engage in manufacturing or agricul-
6 tural production activities.
7 "(E) The name of the export trading company involved
8 shall not be similar in any respect to the name of the corpora-
9 tion organized under this section which owns any of its
10 voting stock or other evidences of ownership.".
11 BANKERS' ACCEPTANCES
12 SEC. 3. The seventh paragraph of section 13 of the Fed-
13 eral Reserve Act (12 U.S.C. 372) is amended to read as
14 follows:
15 "(7)(A) Any depository institution, as defined in section
16 19(b)(1)(A), and any Federal or State branch or agency of a
17 foreign bank subject to reserve requirements under section 7
18 of the International Banking Act of 1978 (hereinafter in this
19 paragraph referred to as 'institutions'), may accept drafts or
20 bills of exchange drawn upon it having not more than six
21 months' sight to run, exclusive of days of grace—
22 "(i) which grow out of transactions involving the
23 importation or exportation of goods;
24 "(ii) which grow out of transactions involving the
25 domestic shipment of goods; or

1 "(iii) which are secured at the time of acceptance
2 by a warehouse receipt or other such document con-
3 veying or securing title covering readily marketable
4 staples.
5 "(B) No institution shall accept such bills, or be obligat-
6 ed for a participation share in such bills, in an amount equal
7 at any time in the aggregate to more than 150 per centum of
8 its paid up and unimpaired capital stock and surplus or its
9 equivalent, as defined by the Board, in the case of a United
10 States branch or agency of a foreign bank.
11 "(C) The Board, under such conditions as it may pre-
12 scribe, may authorize, by regulation or order, any institution
13 to accept such bills, or be obligated for a participation share
14 in such bills, in an amount not exceeding at any time in the
15 aggregate 200 per centum of its paid up and unimpaired capi-
16 tal stock and surplus or its equivalent, as defined by the
17 Board, in the case of a United States branch or agency of a
18 foreign bank.
19 "(D) Notwithstanding subparagraphs (B) and (C), with
20 respect to any institution, the aggregate acceptances, includ-
21 ing obligations for a participation share in such acceptances,
22 growing out of domestic transactions shall not exceed 50 per
23 centum of the aggregate of all acceptances, including obliga-
24 tions for a participation share in such acceptances, authorized
25 for such institution under this paragraph.

1 "(E) No institution shall accept bills, or be obligated for
2 a participation share in such bills, whether in a foreign or
3 domestic transaction, for any one person, partnership, corpo-
4 ration, association or other entity in an amount equal at any
5 time in the aggregate to more than 10 per centum of its paid
6 up and unimpaired capital stock and surplus, unless the insti-
7 tution is secured either by attached documents or by some
8 other actual security growing out of the same transaction as
9 the acceptance.

10 "(F) The limitations contained in this paragraph shall
11 not apply to that portion of an acceptance which is issued by
12 an institution and which is covered by a participation agree-
13 ment sold to another bank or a corporation regulated under
14 section 25 or section 25(a) of this Act.

15 "(G) In order to carry out the purposes of this para-
16 graph, the Board may define any of the terms used in this
17 paragraph, and, with respect to institutions which do not
18 have capital or capital stock, the Board shall define an equiv-
19 alent measure to which the limitations contained in this para-
20 graph shall apply.".

97-362 O—82——2

Chairman ST GERMAIN. At this time I would like to call on our colleague, Mr. LaFalce, who for a long period of time has been a very ardent advocate of ETC legislation. In view of all the time he has put in on this, I think it is only fair to recognize him at this time for a statement.

Mr. LAFALCE. Thank you very much, Mr. Chairman. I appreciate your kind comments. I want to say that it is a great pleasure for me to be here today as we are beginning hearings on the export trading company legislation.

As many know, I was among many who came into export trading legislation during the 96th Congress and I actually introduced my first bill in May 1980. At that time many Members of Congress were committed to increasing the U.S. share of world trade, but we recognized that important structural barriers impeded progress toward that goal.

Our interest had been piqued, or perhaps I should say stabbed, by alarming growth in our trade deficits. Then as now, the trading dollars reflected a rapid increase in imports inadequately offset by more slowly developing export growth.

The result was renewed public pressure for import restrictions. Those of us who basically dislike trade restrictions were forced to look for alternatives that would increase exports; what we asked, were the factors that made our major competitors so effective.

One of the answers that we came up with involved export trading, a sophisticated network of export financing and services which make it easier for goods to reach export markets.

Export trading companies have existed and been quite successfully in this country for years, but they have not grown to rival the size and scope of our trading partners, especially compared with the gigantic trading companies of Japan. Indeed, Mitsui was the sixth largest U.S. exporter in 1980.

Two important statutory restrictions on the growth of U.S. trading companies have been our antitrust laws and the historical prohibition against bank ownership. Export trading company legislation addresses these restrictions, relating the resulting impediments to export growth.

So broad is the appeal of this legislation that it has won the approval of both the past, the Carter, and the present Reagan administrations. There was considerable action on export trading company legislation during the 96th Congress, some of which you have outlined. The Senate similar legislation to what I have introduced was passed unanimously in September 1980, and during this Congress the Senate once again acted in 1981, again unanimously.

I have decided to cosponsor the chairman's bill, H.R. 6016, and am prepared to give the bill my full support. I do, however, think it necessary to comment on just a few provisions in the bill which differ from those of my own bill, H.R. 1648.

My bill, which has been supported by the Reagan administration and has about 120 cosponsors, would permit all banks to invest in export trading companies. The chairman's version restricts such investment authority to bank holding companies and Edge Act corporations. This restriction is probably not a major impediment because the use of holding company structure is already so common

among banks that few potential participants are likely to be excluded.

A second change, though, included in the current bill is a prohibition against export trading companies having a name similar to their parent organizations. While I can understand that existing U.S. exporters might be reluctant to compete with the name recognition of major international banks, I believe that this prohibition might well keep the trading companies from achieving their full export potential, and thus it would be prejudicial to the very goal of the legislation increasing exports.

If there is significant name recognition of financial institutions overseas and if using those names will help to build the confidence in U.S. export companies and ultimately increase exports, I think we should capitalize on those names as fully as possible.

Several major U.S. companies, General Electric and Sears among them, have already announced plans to form their own exporting companies. Are we to assume that they will not exploit a worldwide interest and good will of their corporate names? Of course not. So, although this is a small change, it is one I think is absolutely crucial.

I am sure that further comments on the legislation will be included in the the testimony of those who will appear before the committee. Many of them have daily experience in exporting and they bring to our discussion a much clearer understanding than I have of how the legislation will have to operate in order to meet our goals. I look forward to hearing their comments today and at the continued hearings next month, and I again thank the chairman of the subcommittee and full committee for having these hearings.

Thank you.

Chairman ST GERMAIN. I thank the gentleman.

The Chair now recognizes Mr. Wylie.

Mr. WYLIE. Thank you, Mr. Chairman.

I am pleased that the subcommittee is returning to what I believe to be an extremely important subject, and that is the need to improve the ability of American firms to compete for export markets.

I want to express my support for H.R. 6016 as a useful means of improving the export performance of American industry in creating jobs. I specifically endorse the use of bank holding companies as an appropriate vehicle for participation by banks in export trading companies while safeguarding the safety and soundness of the banks themselves. I am mindful of the fact that some banks may find it convenient to use other vehicles to participate, Mr. Chairman.

Finally, I noticed that one of the witnesses has referred to the concept of reciprocity as a basis for determining our international trade policies. As I have said on many previous occasions in connection with the International Banking Act and related issues, I believe that reciprocity can be of great benefit in assuring that American firms are treated fairly in international markets. As the witnesses have suggested, the purpose of enforcing reciprocity would be to promote freer trade rather than to deny foreign competitors access to our markets.

I would like permission to revise and extend my remarks, Mr Chairman.

Chairman ST GERMAIN. Without objection, so ordered.

[Congressman Wylie's prepared statement follows:]

Statement of
Rep. CHALMERS P. WYLIE, Ohio
Subcommittee on Financial Institutions
April 22, 1982
Hearings on H.R. 6016
Bank Export Services Act

Mr. Chairman:

I am pleased that this subcommittee is returning to what I believe is an extremely important subject, the need to improve the ability of American firms to compete for export markets. before we hear from several of our colleagues, from the Secretary of Commerce, and from the numerous other witnesses who will testify today.

I want to express my support for H.R. 6016 as a useful means of improving the export performance of American industry and creating jobs. There may be some obstacles to be overcome in order to achieve enactment of this legislation, but I stand ready to do my part and, where necessary, to support whatever changes may be needed to improve the prospects for this bill.

Second, I specifically endorse the use of the bank holding company and Edge Act Corporation as appropriate vehicles for participation by banks in export trading companies while safeguarding the safety and soundness of the banks themselves. I believe that H.R. 6016 is consistent with the philosophies of the Bank Holding Company Act and the International Banking Act, which are designed to provide a regulatory framework within which banks can conduct nonbanking financial operations which are necessary in order to remain competitive in domestic and international markets. Nevertheless, I am mindful of the fact that some banks may find it convenient to use other vehicles to participate in export trading companies, and I am openminded on the question of expanding the range of potential vehicles beyond those provided in H.R. 6016, as long as adequate safeguards can also be provided.

Finally, I notice that one of the witnesses has referred to the concept of reciprocity as a basis for determining our international trade policies. As I have said on many previous occasions in connection with the International Banking Act and related issues, I believe that reciprocity can be of great benefit in assuring that American firms are treated fairly in international markets. As the witnesses have suggested, the purpose of enforcing reciprocity would be to promote free trade, rather than to deny foreign competitors access to our markets.

I thank the Chairman.

Chairman ST GERMAIN. The Chair at this time would like to recognize another member of the subcommittee who has done a great deal of work on section 2 of this legislation that I did not mention in my opening remarks, and I do not anticipate any testimony on that section this morning; however, I would like to recognize at this time one of our hard-working members, Mr. Barnard.

Mr. BARNARD. Thank you, Mr. Chairman.

As a cosponsor of H.R. 6016, I want to especially thank you for your cooperation in including in H.R. 6016 section 3, which amends the Federal Reserve Act provision relating to bankers' acceptances. For too long a time now, this particular activity has been operated at a much lower level than it should be operated, and this certainly brings the expansion of bankers' acceptances up to what I think is reasonable in today's climate.

And I want to thank you, Mr. Chairman, for permitting this section to be included, and I certainly want to encourage all of the members of the committee, you know, to be mindful of this. I think it is something that is not controversial. The bankers need it, especially today, and I hope that we can get good support of it.

I will yield to my distinguished friend from New Jersey.

Mr. MINISH. Thank you, Mr. Barnard.

Mr. Chairman, in the interest of time, I want to join in the remarks of my friend from Georgia, and let's proceed with the hearing.

Chairman ST GERMAIN. I thank the gentleman.

At this point we are happy to recognize another laborer in the vineyards, the vineyards of Connecticut and the vineyards of Washington, who also has been doing yeoman's service in this legislative area. I think it is only befitting that he introduce the panels that will be testifying this morning.

I would like to thank our colleague Mr. McKinney for all of his assistance on this legislation to date as I am sure he will be giving us as we proceed.

Mr. McKinney.

STATEMENT OF HON. STEWART B. McKINNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. MCKINNEY. Thank you, Mr. Chairman. Thank you very much for the kind words.

I am pleased and honored to be here representing not only myself and the New England Congressional Caucus, of which the chairman is a member, but also the New England Congressional Institute. As Secretary-Treasurer of the Caucus, I have been working closely with the Institute and the Institute's Export Trading Company Task Force for some time.

Like many of my colleagues in the Caucus, I have been following the progress of export trading company legislation with considerable interest and I am delighted to be here today to testify in support of H.R. 6016. In particular I want to congratulate you, Mr. Chairman, for your efforts in working with the administration, with other House committees and with interested groups to develop a legislative proposal for this committee to consider.

I can assure you that as an individual member of the subcommittee, that you have my fullest support and cooperation in taking this legislation to the House floor. For the benefit of those of you less familiar with the work of the New England Congressional Institute, I would like to take a minute to describe how this group came to be here today.

Back in 1972 when the House Members from the six New England States—once again, the chairman included—founded the New England Congressional Caucus, we knew there were issues of special importance for the region. Originally organized around transportation issues, the caucus agenda expanded to other areas of special concern to New England, including energy, environment and economic development.

In 1980 the New England Congressional Institute was formed to assist the caucus in its policy formulations and to serve as a liaison for the region. The project I am going to speak with you about today is typical of the kind of support the Institute continues to provide to the caucus.

The export sector in New England's economy is a vital and growing one. The Institute's recent publication, "A Survey on Export Trading Company Legislation," 1960 through 1980, has succeeded in focusing our attention on that reality. To cite just a few examples of its findings to the committee, in 1980 the six New England States exported over $9.5 billion in manufactured goods. Most importantly for the future of New England's economy, total export shipments are growing three times faster than manufacturing shipments as a whole.

Compared to the rest of the Nation, New England exports more. Over 9.1 percent of New England's goods are shipped overseas, compared with 7 percent for the rest of the Nation.

One of the reasons the caucus has been so interested in export legislation is that exports are important to all six of the New England States. Between 1972 and 1976, for example, export shipments in all six States grew at twice the rate of total State shipments. As these points illustrate, any legislation which may affect our export capability in New England is important.

Bearing this in mind, in January 1981 the New England Congressional Institute formed an export trading company task force to examine the possibilities for New England and the Nation in export trading company legislation. With several bills pending before Congress, all designed to facilitate the formation of export trading companies, the purpose of the task force was to sort through all the proposals and to make legislative recommendations based upon their deliberations.

Representatives from regional banks, the Federal Reserve Bank of Boston, the smaller business community, international corporations, regional economists and export management companies were asked to serve on this body so that all the constituencies interested in this legislation would be included.

As might be expected, the deliberations produced a diversity of opinions, but the task force also developed a set of findings and recommendations which I think this committee will find very informative. I would like to ask that a copy of my full statement be included in the record.

Chairman ST GERMAIN. Without objection, so ordered.

[The full text of Mr. McKinney's opening statement and the referred-to publications of the New England Congressional Institute: "A Survey on Export Trading Company Legislation" and "Export Trading Company Task Force: Legislative Recommendations," follow:]

Statement of Hon. Stewart B. McKinney
Before the Subcommittee on Financial Institutions
Hearing on H.R. 6016, Bank Export Services Act

I am pleased and honored to be here today, representing not only myself and the New England Congressional Caucus but also the New England Congressional Institute. As Secretary-Treasurer of the Caucus I have been working closely with the Institute, and the Institute's Export Trading Company Task Force for some time. Like many of my colleagues in the Caucus I have been following the progress of Export Trading Company legislation with considerable interest and am delighted to be here to testify in support of H.R. 6016. In particular, I want to congratulate you, Mr. Chairman, for your efforts in working with the Administration, with other House Committees and with interested groups to develop a legislative proposal for this Committee to consider. I can assure you that, as an individual Member of this Subcommittee, that you have my fullest support and cooperation in taking this legislation to the House floor.

For the benefit of those of you less familiar with the work of the New England Congressional Institute, I would like to take a minute to describe how this group comes to be here today. Back in 1972, when the House Members from the six New England states founded the New England Congressional Caucus, we knew there were issues of special importance for the region. Originally organized around transportation issues, the Caucus agenda expanded to other areas of special concern to New England, including energy, environment, and economic development. In 1980, the New England Congressional Institute was formed to assist the Caucus in its policy formulations and to serve as a liaison with the region. The project I am going to speak with you about today is typical of the kind of support the Institute continues to provide the Caucus.

The export sector in New England's economy is a vital and growing one.

The Institute's recent publication, New England Exports 1960-1980, has succeeded in focusing our attention on that reality. To cite just a few examples of its findings:

- In 1980 the six New England states exported over $9.5 billion in manufactured goods. Most importantly for the future of New England's economy, total export shipments are growing three times faster than manufacturing shipments as a whole.

- Compared to the rest of the nation, New England exports more. Over 9.1% of New England's goods are shipped overseas compared with 7% for the rest of the nation.

- One of the reasons the Caucus has been so interested in export legislation is that exports are important to all six New England states. Between 1972 and 1976, for example, export shipments in all six states grew at twice the rate of total state shipments.

As these points illustrate, any legislation which may effect our export capability in New England is important. Bearing this in mind, in January 1981 the New England Congressional Institute formed an Export Trading Company Task Force to examine the possibilities for New England and the nation in export trading company legislation. With several bills pending before Congress, all designed to facilitate the formation of export trading companies, the purpose of the Task Force was to sort through all the proposals and to make legislative recommendations based upon their deliberations. Representatives from regional banks, the Federal Reserve Bank of Boston, the smaller business community, international corporations, regional economists, and export management companies were asked to serve on this body so that all the constituencies interested in this legislation would be included. As might be expected their deliberations produced a diversity of opinions, but the Task Force also developed a set of findings and recommendations which I think this Committee will find very informative. I would like to ask that a copy of their full report be included in the record. In addition, several Members of that Task Force

have come here today to provide you with their personal observations about the use of export trading companies.

As one of its activities during the past year, the Task Force initiated a region-wide survey to determine the level of interest in export trading companies in New England and the potential impact export trading companies might have in the region. I would like to outline the results for you briefly this morning:

- Over half of the respondents, the vast majority of which were small businesses exporting less than10% of their sales, indicated they want to utilize services provided by export trading companies. Significantly, 76% said that they needed marketing assistance, and 69% said they needed financing assistance.

- All of the banks surveyed in New Englnad, which included many of the smaller regional banks, stated that banks should be allowed to invest in and control export trading companies if they chose to do so, and all of the export management firms responding to the survey felt that the ability to offer direct financing to their clients would significantly increase sales.

As a result of this survey, and after considerable discussion and debate, the Task Force issued its Legislative Recommendations last summer. While some of these recommendations fall outside the specific focus of the legislation before us today, I think they are worthy of our attention. I believe each of you has a copy of these recommendations. Briefly, the New England Institute Export Trading Company Task Force finds that:

- As one of the most export-oriented regions of the country, New England stands to benefit significantly from the enactment of export trading company legislation. Survey results indicate that the potential effect of export trading company legislation in New England means $500 million earned in export sales and as many as 15,000 jobs.

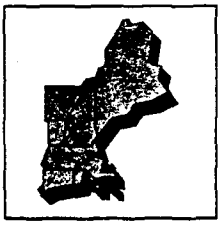
- If the recommendations of bank regulatory agencies can be incorporated into export trading company legislation, bank participation in export trading companies poses little threat either to the safety and stability of the banking system in New England, or to fair competition.

- Threat of antitrust prosecution has been a major disincentive to the development of joint export ventures by smaller and medium-sized businesses, and prior exemption for antitrust prosecution should be provided to export trading companies through a certification process based in the Justice Department.

- Export Import Bank guaranteed loans are a key componant of the export trading company legislative package. In addition, sufficient funding to publicize and administer the export trading company legislation is needed to insure that export trading companies will be utilized by smaller banks and businesses.

Mr. Chairman, I am sure that the other Members of the Subcommittee share our mutual interest in hearing from people who helped develop that list. I would now like to turn the testimony over to them. Each brings a different perspective to today's deliberations. Each has followed export trading company legislation with considerable interest and each supports the bill before us today, H.R. 6016. These witnesses represent small business, manufacturing, regional banks, port authorities, and export management firms. I think these witnesses are well qualified to aid us in our deliberations.

In closing I would like to reiterate my strong support for export trading companies. I commend you Mr. Chairman for doing all that you have to expedite consideration of this proposal and urge my colleagues to join us in pushing for prompt action. This hearing today marks an important step in that direction.



A Survey On:

EXPORT TRADING COMPANY
LEGISLATION

New England Congressional Institute
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INTRODUCTION

In response to increasing Congressional interest in export trading company (ETC) legislation, the New England Congressional Institute conducted a month-long survey designed to assess opinion about the legislation in New England. Over 650 businesses and banks were contacted in the six-state region (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont).

The following report includes a summary of the major findings of the survey and a brief methodological review. Particular emphasis has been placed on survey data which may aid in resolving those legislative issues which remain to be negotiated.

A complete description of the survey sample, questionnaire, and methodology is included as appendices to this summary. Also included in the appendices are an outline of the major provisions of the proposed legislation and additional information about the New England Congressional Institute.

SUMMARY OF SURVEY RESULTS

Survey respondents were divided into three broad categories: manufacturing and service firms, banks, and export management companies. This summary of results will outline the responses of each of these three groups.

Manufacturing and Service Firms: Several interesting trends emerged from the responses received from manufacturing and service firms. The three highlighted below give an indication of the level of interest in the legislation, and the extent to which its provisions are understood in the business community.

- The smaller business community in New England is keenly interested in legislation which might enable them to increase their export potential, regardless of their prior export experience. Despite the fact that the original sample was balanced between businesses of all sizes, 89% of the responses in the manufacturing and service sector came from firms with less than $50 million in annual sales and less than 500 employees. (82% of the responses were from businesses with less than $10 million in annual

sales.) 50% of all survey respondents indicate that they currently export less than 10% of their sales.

- While 89% of the respondents from the manufacturing and service sector stated that they were only somewhat or not at all familiar with proposed ETC legislation, over half state they want to utilize ETC services. The expertise that businesses need most urgently are marketing (76%) and financing (69%).

- The extent to which firms were unfamiliar with the details of the legislation is reflected in their responses to questions about specific provisions. This section of the survey is notable for its lack of consistancy, with yes, no, and uncertain responses almost evenly distributed on every question.

Banking Sector: Since the direct participation of banks in export trading companies has generated considerable discussion, and because the issues are complex, a phone as well as a written survey was conducted of 39 banks and state banking associations throughout the six New England states. (See appendix for list of participating banks.) Most of the respondents were small to medium-sized, full service banks. 71% had assets of less than $450 million, 38% had assets of less than $50 million.

- Larger banks located in major metropolitan areas have been outspoken in their support of legislation which allows banks to have control of ETCs; to date there has been relatively little documentation of the interests of smaller, regionally-based banks. Despite considerable discussion in trade journals about upcoming legislation, few of the bankers surveyed were aware of specific provisions. 66% of the total respondents indicated they were only somewhat or not at all familiar with proposed ETC legislation.

- Despite their relative lack of familiarity with the legislation's provisions, 100% of the banks surveyed indicated that banks should be allowed to invest in and control ETCs if they choose to do so.

- Regardless of the size of their bank assets, 92% of bank respondents assumed that larger banks, already active in international trade transactions, would be the primary initiators of ETCs. Smaller regional banks indicated they hoped to be able to offer extended trade-related services to their clients through their correspondent relationships with city-based banks.

- In response to questions about the antitrust implications of the legislation (i.e., does prior antitrust certification of ETCs threaten to give large banks and large companies an unfair competitive advantage), 80% of the bank respondents indicated that the regulations as proposed in S.734 were appropriate and sufficient.

Considerable interest has been generated by the question of whether or not banks should be allowed to control ETCs, and whether or not banks would be willing to invest in ETCs if the legislation prohibited them from having a controlling interest.

During interviews with bankers, a variety of responses were encountered. Some indicated that they had strong reservations about relinquishing corporate control, and said they would not be interested in ETCs unless they were able to maintain a majority share of the stock. Other bankers suggested that they would prefer to invest in an experienced export management firm, and remain somewhat distant from day-to-day management decisions. Qualifying all of their statements were indications that decisions on this would be based upon individual circumstances after the legislation is complete.

Some concern was expressed by the banking community that the certification and regulatory procedures currently proposed might be an additional burden on their institutions. Indeed, the mention of bank regulation as a general topic tended to elicit extended comment on the excessive nature of already existing statutes.

Export Management Companies: Utilizing published lists and personal networks of the Institute's Export Trading Company Task Force memebers (See Appendix VI), as complete a list as possible was compiled of export management companies currently

operating in New England. Not surprisingly, 34% of these companies were very familiar with the legislation, another 53% rated themselves as somewhat familiar. Most of the companies responding to the survey were small: 75% have annual sales of less than $4 million; 85% have less than 25 employees.

- Despite the fact that some alarm was registered in the "additional comments" section of the survey that their small, independent operations could suffer badly from competition from bank financed ETCs if this legislation is passed, 73% of the respondents indicated that they would want to be certified as an ETC with the Department of Commerce.

- Over half of the respondents indicated they would like to cooperate with a bank in a joint venture ETC. Those who question the advisability of doing so expressed concern that banks would want to control the day-to-day managment of such a joint venture, not just the financing, and stated that they would want to participate only if very specific contractual agreements were met.

- 100% of those polled indicated they felt that the ability to offer direct financing to their clients would increase their sales; 57% expected an increase of over 25%. 36% stated that this capability would increase their sales by 11% to 25%.

METHODOLOGY

The sample for this survey was generated from a random sample of published lists, membership lists of regional business organizations, and a network of contacts developed through the New England Congressional Institute's Export Trading Company Task Force. The original sample contained 662 names: 101 banks, 76 export management companies, and 485 manufacturing and service firms. The response rate, including follow-up phone calls, was 29%.

The survey questionnaire was divided into four parts with questions covering the following topics: 1) knowledge of ETC legislation, 2) corporate planning, i.e., to what extent did the respondents expect ETCs would be utilized in the region, 3) opinions on specific aspects of the legislation, and 4) identification of

the respondent by firm size, prior export experience, etc.

The survey was conducted by mail and by phone between April 10 and May 15, 1981. Final tabulations were completed by May 22.

APPENDICES

Appendices I, II, and III list survey questions and answers, describe how the survey sample was generated, and who responded to the questionnaire.

Appendix I outlines the responses from the manufacturing and service sectors; Appendix II lists those from the banking sector; and Appendix III contains answers from export management firms.

Sample questionnaires for all three sectors are included in Appendix IV.

Appendix V outlines the arguments for and against currently proposed legislation, and lists the major provision of S. 734.

Additional information on the New England Congressional Institute is available in Appendix VI, as well as a list of the members of the Institute's Export Trading Company Task Force.

APPENDIX I: MANUFACTURING AND SERVICE SECTOR RESPONSES

The manufacturing and service sector was contacted by mailed questionnaire between April 10th and May 1st. Follow-up phone calls were conducted during the week of May 8th.

This Appendix lists the questions asked of each firm, and the percentage response to each question. In all cases, the individual responding to the questionnaire was either the CEO, President, or, in larger companies, the Vice-President of the International Division.

The first section of the survey was designed to determine how familiar corporate leaders were with the legislation, and whether or not they expected to make use of opportunities made available through its passage. The second section asked for opinion on specific legislative provisions.

Following an outline of these responses, Appendix I summarizes how the survey sample was generated and profiles the respondents to the questionnaire.

A. Corporate Planning - Manufacturing and Service Sector Responses

How familiar are you with export trading company legislation?

42% not at all
47% somewhat
11% very familiar

Where did you get your information?

67% newspapers
39% trade journals
30% other media sources

Do you think firms like yours would be interested in utilizing the services of an ETC?

53% yes
19% no
29% uncertain

Which of the following services do you think would be utilized by a firm like yours? (Respondents chose as many as they wanted)

76% marketing assistance
69% financing assistance
49% foreign exchange
49% transportation services
49% legal assistance
43% insurance
26% warehousing

Do you think firms like yours would initiate formation of an ETC?

15% yes
28% no
57% uncertain

Do you think firms like yours would be interested in joining with others in a joint venture?

38% yes
19% no
43% uncertain

Do you think firms like yours would be interested in participating in an ETC?

41% in the first year after enactment of the legislation
11% " second " "
2% " fifth " "
19% no
27% uncertain

If ETCs were prohibited by law from offering direct financing, would their other services remain as useful to firms like yours?

64% yes
20% no
16% uncertain

B. Opinion on Specific Aspects of the Legislation
Manufacturing and Service Sector

Do you think that certification and regulation procedures outlined in the key provisions of the legislation are appropriate and sufficient?

40% yes
11% no
49% uncertain

Do you think banks will invest in an ETC if the law does not allow them to have a controlling interest?

48% yes
16% no
36% uncertain

Should banks be allowed to invest more than 5% of their capital and surplus in ETCs?

36% yes
31% no
33% uncertain

More than $10 million?

29% yes
20% no
51% uncertain

Should there be statutory inventory-to-capital limits for bank controlled ETCs?

38% yes
26% no
36% uncertain

Do you favor an amendment which prevents any one bank from owning more than 19.9% of voting shares in an ETC at any given time?

33% yes
33% no
34% uncertain

Should the legislation specify a percent of ETC earnings which relate to exports?

33% yes
16% no
51% uncertain

Do you think the antitrust provisions of this legislation are sufficient?

38% yes
19% no
43% uncertain

Should DISC tax deferral provisions be extended to ETCs?

67% yes
12% no
21% uncertain

C. Sample

The 485 companies contacted by this survey were selected in the following manner:

source	method	number	% of total
published directories of N.E. manufacturing and service firms	random sample of 40 to 45 businesses in each of the 6 N.E. states	250	52%
published list of 200 largest N.E. manufacturing firms	random sample	25	5%
published list of 200 largest N.E. service firms	random sample	25	5%
membership list of Smaller Business Association of New England (SBANE)	selected by SBANE Committee on International Trade	100	21%
membership list of International Business Center of New England (IBC)	distributed among the six N.E. states	85	17%

The original sample included a mix of small and large firms. Defining small and medium sized firms as those with assets of less than $50 million, 55% of the potential respondents were small and medium sized; 45% were classified as large businesses.

Since by far the majority of the mailed responses were from businesses in the small and medium sized category, (89%), during the week of May 8 follow-up phone calls were made to 10 businesses on the list of 200 largest firms.

Prior experience in the export field could not be determined before return of the survey, but it can be assumed that the sample was biased slightly in favor of those with an interest in exporting by the inclusion of the SBANE and the IBC sample.

Due to the predominance of large scale industry in the lower tier states of New England, the sample was distributed among the six states as follows: Connecticut 19%, Massachusetts 39%, Maine 9%, New Hampshire 11%, Rhode Island 11%, Vermont 11%.

D. Profile of Respondents

18% of the manufacturing and service sample responded to the survey. The identity of the respondents is outlined below.

1) Industrial Sector - using Standard Industrial Codes (SICs)

manufacturing

3%	food	SIC 20
4%	apparel	SIC 22
	lumber	SIC 23
5%	furniture	SIC 24
	paper	SIC 25
8%	chemicals	SIC 28
5%	leather	SIC 30
7%	metal products	SIC 34
8%	machinery	SIC 35
20%	electronics	SIC 36
7%	instruments	SIC 38

service

12%	business consulting
4%	engineering
3%	architecture

(14% divided between those who declined to identify themselves and sectors having less than 2% response rate.)

2) Location

Connecticut 8%, Massachusetts 57%, Maine 2%,
New Hampshire 10%, Rhode Island 13%, Vermont 10%.

3) Size of Company

annual sales

82% less than $10 million sales per year
7% between $11 million and $49 million per year
11% over $50 million per year

number of employees

54% have less than 50 employees
35% have between 49 and 499 employees
11% have over 500 employees

4) Export Experience (19% maintain offices overseas)

50% export less than 10% of total sales
35% export between 10% and 50% of total sales
15% export over 50% total sales

5) Destination of export sales

25% Europe, 18% Asia, 18% South and Central Asia,
13% Middle East, 13% Africa, 13% Canada

APPENDIX II: Bank Sector Responses

A. Sample and Methodology

On April 10, 1981, a written survey was mailed to a selected sample of banks in New England. The sample was generated from listings available in published bank directories. 101 banks, distributed equally between the six New England states were chosen on the basis of the following criteria: size of assets (one third over $500 million, one third between $50 million and $450 million, and one third less than $50 million), and location, (evenly distributed between large and small communities and in all parts of the states).

From this original sample, 4% responded by mail to the written survey. A follow up survey was therefore conducted by phone. The participants in both the written and phone survey are listed on the following page. Since the majority of the responses were taken over the phone, the survey form included with this report was summarized to shorten the time needed to conduct the personal interviews. In all cases, the person interviewed was either a president or vice president of the bank in question.

The following questions were asked:

How familiar are you with export trading company legislation?
Do you currently participate in export financing, and to what extent?
What are the current assets of your bank?

Depending upon the level of their previous knowledge, a brief summary of the issues surrounding the legislation was then given to each respondent, paraphrasing closely the information given in the written questionnaire. Then four key opinion questions were asked:

Do you think banks should be allowed to invest in and control export trading companies?
Do you think small banks or large banks will participate in ETCs?
Do you think the antitrust provisions of the proposed legislation are appropriate and sufficient?
Are you satisfied with the certification and regulatory provisions of the legislation?

The following is a summary of the answers given in the phone survey, conducted May 4 through 7, 1981.

B. Phone Survey Responses

Do you think banks should be allowed to invest in and control export trading companies?

100% yes
0% no

Typical responses:

From a small regional bank in the northern tier, "I'm in favor of expanding banks' role, we need to compete with the Merrill Lynch's and the big insurance companies."

"In general, banks want to have an equal footing with other financial institutions, so we should in ETCs as well."

Do you think small banks or large banks will participate in ETCs?

92% large banks
6% small banks

Typical responses:

"Banks are pretty conservative about this; we're a $2½ billion bank and I think we'll be taking a wait and see attitude, see what other banks are doing first."

"In Connecticut I think only 3 or 4 of the largest banks would be interested."

Do you think the antitrust provisions of the proposed legislation are appropriate and sufficient?

80% yes
20% no

Typical responses:

From a small northern tier bank, "We expect to be able to use this legislation to expand our services to our customers, mainly through our relationship with our city correspondent bank. But as far as setting up [an ETC] of our own, no, at least not in this century."

"I don't expect the small banks in Boston will like it much, but for us up here, we don't have any fear of the bigger banks taking over; our customers need our services."

"We're a small bank and we think it will be good for the economy, so it's got to be good for us."

"The trend in banking seems to be that bigger is better; I don't think I like that. I'm worried about it from a domestic point of view; I wonder about the trend toward larger and larger mergers."

Are you satisfied with the certification and regulatory provisions of the legislation?

50% yes
50% no

Typical responses:

"I'm concerned about the future of banks; how do these regulations fit into the whole larger picture? Are they [Congress] just going to keep doing this in a piecemeal fashion?"

"We're regulated to death now as it is."

C. Profile of Respondents Banks Total # = 39 (39%)

How familiar are you with export trading company legislation?

34% very familiar
66% not at all or only somewhat familiar

Do you currently participate in export financing, and to what extent?

32% participate fully in international trade activities
36% participate occasionally
32% do not participate in trade financing

What are the current assets of your bank?

29% - assets over $500 million
33% - assets between $55 and $450 million
38% - less than $50 million

Banks that Participated in the Export Trading Company Survey
April 10 to May 8, 1981

Bank of New Haven, New Haven, CT
Chester Bank, Chester, CT
Connecticut Bank and Trust, Hartford, CT
Connecticut National Bank, Bridgeport, CT
Hartford National Bank, Hartford, CT
Putnam Trust Company, Greenwich, CT
Union Bank, Stamford, CT

Connecticut Bankers Association, Hartford, CT

Bay Bank Valley Trust, Springfield, MA
First National Bank of Amherst, Amherst, MA
First National Bank of Boston, Boston, MA
Security National Bank, Lynn, MA
Shawmut Bank, Boston, MA
State Street Bank, Boston, MA
Worcester County National Bank, Worcester, MA

Massachusetts Bankers Association, Boston, MA

Bank of Maine, Augusta, ME
Camden National Bank, Camden, ME
Casco Bank and Trust, Portland, ME
Ocean National Bank, Kennebunk, ME
Union Trust, Ellsworth, ME

Maine Bankers Association, Augusta, ME

Ashuelot National Bank, Keene, NH
Bank of New Hampshire, Manchester, NH
Hampton National Bank, Hampton, NH
Nashua Trust Company, Nashua, NH

New Hampshire Bankers Association, Keene, NH

Centerville National Bank, West Warwick, RI
Columbus National Bank, Providence, RI
Hospital Trust, Providence, RI
Industrial National Bank, Providence, RI
Peoples Bank, Providence, RI

Rhode Island Bankers Association, Providence, RI

Bellows Falls Trust Company, Bellows Falls, VT
Chittendon Bank, Burlington, VT
Community National Bank, Derby, VT
First Brandon National Bank, Brandon, VT
Franklin Lamoille Bank, St. Albans, VT
Proctor Trust Company, Proctor, VT

Vermont Bankers Association, Montpelier, VT

APPENDIX III: Export Management Company Responses

A. Sample: Export Management Companies Total # = 22 (26%)

76 surveys were mailed April 10, 1981. The sample was developed by combining published lists and names gathered from knowledgeable experts in international trade. The sample represents as complete a list as possible of export management firms in New England. 26% of the sample responded fully to the survey.

B. Corporate Planning

How familiar are you with export trading company legislation?

34% very familiar
53% somewhat
13% not at all

Where did you get your information?

25% trade journals
54% newspapers
21% other media sources

Do you think firms like yours will initiate formation of a Department of Commerce certified ETC?

73% yes
20% no
7% uncertain

Do you think the ability of an export management firm to offer direct financing to clients would increase their volume of business?

57% responded that sales would increase by over 25%
36% " " between 11% to 25%
7% " " between 5% to 10%

Do you think firms like yours would be interested in joining with a bank in a joint venture ETC?

53% yes
27% no
20% uncertain

With another EMC?

35% yes
15% no
50% uncertain

When do you think firms like yours would be interested in participating?

53% after one year
26% after two years
15% after five years
15% no (the major reason given in the extended comments for not wanting to participate is the potential for increased government regulation and interference.)

C. Opinion on Specific Aspects of the Legislation
Export Management Companies

Do you think that certification and regulation procedures outlined in the key provisions of the legislation are appropriate and sufficient?

46% yes
8% no
46% uncertain

Do you think banks will invest in an ETC if the law does not allow them to have a controlling interest?

50% yes
21% no
29% uncertain

Should banks be allowed to invest more than 5% of their capital and surplus in ETCs?

29% yes
43% no
28% uncertain

More than $10 million?

45% yes
22% no
33% uncertain

Should there be statuatory inventory-to-capital limits for bank controlled ETCs?

53% yes
20% no
27% uncertain

Do you favor an amendment which prevents any one bank from owning more than 19.9% of voting shares in an ETC at any given time?

52% yes
27% no
20% uncertain

Should the legislation specify a percent of ETC earnings which relate to exports?

36% yes
29% no
35% uncertain

Do you think the antitrust provisions of this legislation are sufficient?

47% yes
47% no
6% uncertain

Should DISC tax deferral provisions be extended to ETC's?

80% yes
20% no
0% uncertain

D. Profile of Respondents

Services Provided to Customers

75% marketing
15% insurance
10% foreign exchange assistance

Size of Company

sales

25% over $5 million
50% between $4 and $2 million
25% less than $1 million

employees

15% more than 25
85% less than 25

97-362 O—82——4

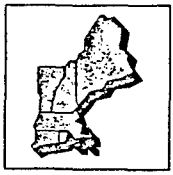
50% have offices overseas.

Destination of Overseas Trade

22% Europe, 18% Asia, 18% South and Central America, 16% Middle East, 13% Africa, 13% Canada.

APPENDIX IV

Survey of Manufacturing and Service Sector



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Export Trading Company Survey

April 10, 1981

The New England Congressional Institute is an independent, nonprofit, nonpartisan policy research group which provides information and analysis to the New England Congressional Caucus and other regional and national organizations. At the request of the Caucus, the Institute has prepared the following survey to provide them with information on which to base their decisions.

The survey is being distributed to a representative sample of 500 banks and businesses in all six New England states. Individual responses to the survey will be utilized only by the New England Congressional Institute to formulate a statistical overview of regional opinion. This overview will be distributed to New England Members of Congress and other interested decision-makers.

Please return this questionnaire by May 1, 1981. If you feel that you are not the appropriate person to respond to the questions posed here, please direct this to the person in your organization most familiar with trade issues. As you will note, the survey form may be refolded, stapled, and mailed back to the Institute.

If you have any further questions or would like additional information, please contact Charlotte D. Staelin, New England Congressional Institute, (202) 543-8855.

Thank you for your assistance.

Survey on Export Trading Company Legislation

Prior knowledge of export trading company (ETC) legislation.

1. Prior to receipt of this survey, how familiar were you with export trading company legislation?
   very familiar ____ somewhat ____ not at all ____

2. If you had prior knowledge of ETC legislation, where did you get your information?
   trade journals ____ newsletters ____ newspapers ____ other ____

Corporate Planning

3. If the legislation is passed, do you think firms like yours would be interested in utilizing the services of an ETC?
   yes ____ no ____ uncertain ____

   If not, why? _____

4. The following is a list of services that an ETC might offer. Which do you think would be utilized by a firm like yours?
   financing ___ marketing ___ insurance ___
   warehousing ___ legal assistance___
   transportation ___ foreign exchange ___

5. If ETC legislation is passed, do you think firms like yours would initiate formation of an ETC?
   yes ____ no ____ uncertain ____

6. Do you think firms like yours would be interested i joining with others in a joint venture ETC?
   yes ____ no ____ uncertain ____

7. Do you think firms like yours would be interested i participating in an ETC in the first year after enactment?
   yes ____ no ____ uncertain ____

   After two years? yes ___ no ___ uncertain ___

   After five years? yes ___ no ___ uncertain ___

8. If ETC's were prohibited by law from offering direc financing, would their other services remain as usefu to firms like yours?
   yes ____ no ____ uncertain ____

Opinion on Specific Aspects of the Legislation

The following questions are on technical aspects of the legislation. For those who are less familiar with it, we have provided a summary of its major provisions. Please use your best judgement in returning as complete a survey as possible.

9. Do you think that certification and regulation procedures outlined in the key provisions of the legislation are appropriate and sufficient?
   yes ____ no ____ uncertain ____

   If not, why? _____

10. Some debate has centered around the question bank control of ETC's. Do you think banks will invest an ETC if the law does *not* allow them to have a controlling interest?
    yes ____ no ____ uncertain ____

11. Should banks be allowed to invest more than 5% of their capital and surplus in ETC's?
    yes ____ no ____ uncertain ____

    More than $10 million? yes ___ no ___ uncertain _

12. Some concern has been expressed that routine business risk involved in international trade may threaten the financial stability of investing banks. Should there be statutory limits on inventory-to-capital ratios for bank-controlled ETC's?

yes _____ no _____ uncertain _____

13. Would you favor an amendment which prevents any one bank from owning more than 19.9% of voting shares in an ETC at any given time?

yes _____ no _____ uncertain _____

14. In order to qualify for bank equity ownership, should the legislation specify a percent of ETC earnings which relate to exports?

yes _____ no _____ uncertain _____

15. Some have indicated that allowing ETC's to represent many manufacturers of a specific commodity may bias the market toward already established companies. Others maintain that this will not be a problem, since anti-trust exemptions would only be given to ETC's in their export trade. Do you think the anti-trust provisions of this legislation are sufficient to insure that competition between ETC participants and independent exporters would be maintained?

yes _____ no _____ uncertain _____

16. Should tax deferral provisions of Domestic International Sales Corporations (DISC's) be extended to ETC's?

yes _____ no _____ uncertain _____

Questionnaire continues on next page.

Key Provisions of Export Trading Company Legislation

Although there are slight variations between the five export trading company bills before the 97th Congress as of this writing, the major provisions of this Session's bills are similar to those in legislation proposed last year. The intent of the legislation is to promote export sales by small and medium-sized businesses. The major provisions of the bills being considered are as follows.

Export trading companies (ETC's) are defined as companies formed specifically to facilitate the export of goods and services produced in the United States by unaffiliated persons or companies.

Services which might be offered to exporters by an ETC are financing, marketing, insurance, legal assistance, transportation, warehousing, and foreign exchange. Manufacturing or agricultural production activities are explicitly banned.

The legislation is designed to allow banks a controlling interest in ETC's. Definition of control is the responsibility of the appropriate Federal banking agency: the Controller of the Currency, Federal Reserve System, Federal Deposit Insurance Corporation, or the Federal Home Loan Bank Board.

Within this broader mandate, the following restrictions are cited in the legislation.

- Banks would be permitted to invest up to 5% of their capital and surplus in one or more ETC's at any given time; banking institutions incorporated under the 1919 Edge Act may invest up to 25%.
- Total investment, including equity and credit extensions, may not exceed 10% of the bank's capital and surplus.
- Investments exceeding $10,000,000 would require prior approval by the appropriate Federal agency.
- Prior approval is also required for a bank to control more than 50% of voting stock in an ETC.

Exemption from anti-trust laws would be granted an ETC with respect to its export trade activities.

Reporting and certification procedures include, 1) certifying the establishment of an ETC with the Department of Commerce, 2) notifying the Federal banking agency in writing prior to any change in trading activities or commodities, and prior to making any additional investment in an ETC, and 3) annual reporting of activities.

One of the bills being considered extends Domestic International Sales Corporation (DISC) tax deferral provisions to export trading companies.

Additional provisions call for $20,000,000 to be appropriated by Congress each year for five years to administer the program through a new office at the Department of Commerce. Also, the legislation provides for insurance guarantees to be offered through the Export-Import Bank.

Profile of Respondent

Person to contact for questions or clarification? _____

Products manufactured by your firm _____

Services provided by your firm _____

Total sales for most current complete fiscal year _____

Number of employees _____

Percent sales exported _____

Do you have overseas subsidiaries? _____

Do you maintain offices overseas? _____

How many? _____

To what areas of the world do you export? _____

We would appreciate any further comments you would like to make on this legislation.

_____

_____

_____

_____

The identity of respondents to this survey will be kept strictly confidential. Individual responses will be usec only by the New England Congressional Institute to formulate a statistical overview of regional opinion. Any respondent who wishes to remain anonymous may of course do so, although identifying your organization will facilitate accurate interpretation of the data collected.

Return address

_____

_____

_____

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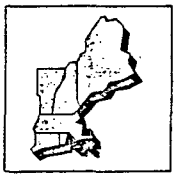
APPENDIX V



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H. BARLEY SPENCER

MEMORANDUM

Subject: Export Trading Company Legislation (ETCs)

From : Charlotte Staelin and Tom Foley

Date : April 29, 1981

On April 8th, the Senate passed the Export Trading Company Act of 1981 by a vote of 93 to 0 (S. 734, Heinz, R-PA). Action now shifts to the House, where several export trading company bills are under consideration. This memo will provide background information on ETCs, outline the arguments for and against facilitating their development in the United States, summarize the major provisions of the legislation and list current and future committee action.

Background Information on Export Trading Companies

The models for export trading company development in the United States are the highly successful trading companies found in Japan and Western Europe. Historically, such companies have serviced the trading needs of a broad spectrum of businesses, both within their home country and in other areas of the world. ETCs based in other countries currently have representatives operating in the United States. In many instances, trading companies have enjoyed government sanction or support, and involve cooperation between private business, government, and the banking sector. The purpose of designing legislation to facilitate ETC development in the United States is to provide increased opportunities for small and medium-sized companies to expand export activities.

Supporters of ETC legislation in the United States envision export trading companies offering one-stop information and assistance to smaller companies, providing all the services they would need to export successfully. These include, but are not limited to, trade financing, marketing, insurance, legal assistance, transportation, warehousing and foreign exchange.

Arguments for Export Trading Company Legislation

Proponents of ETC legislation cite four major reasons why the legislation is needed to aid in development of U.S. exports: 1) the deteriorating balance of trade, 2) the difficulties faced by small and medium-sized businesses that want to export, 3) confusing antitrust regulations, and 4) banking regulations that do not allow banks to participate directly in export activities.

- Proponents of ETC legislation emphasize the aggregate U.S. trade deficit over the past five years, more than $105 billion. While they recognize the short term gains in the U.S. current account balance in 1980, ETC sponsors argue this is a false indicator of our overall trade position. They caution against letting minor changes in trade figures detract from the far more important fact that international trade competitiveness will increase in the coming years, and that the United States must be prepared to meet that competition on an equal footing.

- Without assistance, smaller businesses are hesitant to enter foreign markets. Foreign markets involve more risk than domestic ones. Licensing and foreign exchange practices are confusing. Financing is difficult to obtain. Complicated regulations often require costly legal advice. These barriers, real and perceived, mean that an estimated 20,000 smaller businesses that could export do not do so. Proponents say that this legislation would enable private ETCs to fill this need.

- Many American businessmen say that antitrust regulations are a disincentive to export trade because it is unclear how antitrust law applies to foreign trade. Despite some obvious efficiencies to be achieved by joint export ventures, they have been reluctant to leave themselves open to antitrust prosecution. Uncertainty about the application of antitrust laws to foreign trade is cited as a basic reason for the limited success

of earlier enabling legislation (Webb-Pomerene Act, 1918). By certifying ETCs and granting them prior exemption from antitrust prosecution, proponents say this disincentive will be eliminated.

- Finally, under current banking laws banks are not allowed to participate in commerce. Proponents say that without bank investment and participation in ETCs, one crucial component would be missing: the ability of an ETC to offer credit and financing as part of their regular services.

Arguments Against Export Trading Company Legislation

While few are willing to question the basic premise that America must improve its export performance, opponents of ETC legislation question much of the above analysis.

- Opponents of the current legislation start with a different interpretation of trade balance figures. They point to the current account trade surplus in 1980, and say that our recent export strength does not justify a radical departure from some important American principles.

- Those who question current ETC legislation say there is no need to jeopardize the traditional separation between banking and commerce at a time of relative export strength. They worry that the high risk involved in foreign trade may undermine bank stability, and point to the failure of banks during the Great Depression as an indication of what can happen when banks are allowed to participate in commerce. (The Federal Reserve Board, for example, favors limiting bank investment to 20% of any ETC, and any group of banks from holding more than 50% of an ETC).

- Opponents of the legislation say that granting antitrust exemptions to ETCs in their foreign trade activities, as proposed in the bills under consideration, sends a negative message to America's trading partners. They say that the antitrust provisions of the bills encourage international cartels and price fixing and that they undermine longstanding American support for free trade.

- Opponents question the propriety of having the Department of Commerce be the enforcement agency for ETC antitrust regulations. S. 734 does stipulate that the Department of Commerce should consult with the Justice Department, but some say it is a conflict of interest to have Commerce enforcing antitrust regulations when its primary mission is to increase trade.

Finally, opponents of this legislation see its certification and regulatory provisions as complicated, redundant, and potentially wasteful, since they include four banking agencies, the Commerce Department, Justice, and the Securities and Exchange Commission.

Major Provisions of S. 734

Export trading companies are defined as companies organized and operated principally for the purposes of exporting, or facilitating the export of goods and services produced in the United States by unaffiliated persons.

The legislation has been drafted to allow for a variety of ETC organizational structures. The intent is to allow American ETCs to develop their own unique forms and capabilities, different from, but competitive with, those in other countries. The possibility exists that a variety of organizations would participate and invest in ETCs: currently existing export management companies, freight forwarders, port authorities, Webb Pomerene Associations, banks, and exporting businesses, among others.

Since participation and ownership of ETCs by banks is one of the major controversies surrounding this legislation, a variety of regulations and statements of intent are included:

- Federal banking agencies are empowered to impose any regulations they deem necessary to protect bank investments in ETCs, including inventory-to-capital-ratios.

- Banks are prohibited from investing more than 5% of their capital and surplus in ETCs. Total historical investment, including direct and indirect investment and extensions of credit, may not exceed 10%.

- To invest more than $10 million in an ETC, or to take a controlling interest, a bank needs prior approval of the appropriate banking agency.

- Manufacturing or agricultural production are forbidden by bank sponsored ETCs.

- The bill explicitly disallows banks from giving preferential credit treatment to ETCs in which they hold interest, or to any customer of such a company.

- In addition, federal banking agencies are instructed to take special consideration of any investment that poses a threat to the stability of investing banks; banks must inform the agency prior to any changes in their investment. Risky loans or speculative activities are grounds for revocation of ETC certification.

In order to be exempt from anti-trust regulations, export trading companies must obtain certification by the Department of Commerce, which will grant certification after consultation with the Attorney General and the Federal Trade Commission (FTC). Both the Justice Department and the FTC may file for revocation of certification within 30 days of its issuance. Decisions of the Department of Commerce may also be appealed by the ETC applicant.

Two appropriations sections of S. 734 were eliminated on the Senate floor. One, to authorize $10 million for each year for five years to fund ETC administration, and another to provide $2 million per year to fund a pilot program subsidizing small business hiring of export consultants.

Legislative Notes and Calendar

S. 734 was originally introduced as S. 144, S. 734 emerging from mark up after two days of hearings by the Senate Banking Committee. The Reagan administration supported S. 144, without the appropriations, and supports S. 734.

Four ETC bills have been introduced in the House: H.R. 1321 and H.R. 2123 (Gibbons, D-FL), H.R. 1799 (Bonker, D-WA), and H.R. 1648 (La Falce, D-NY). The La Falce bill most closely parallels the original S. 144. Three committees have jurisdiction, Foreign Affairs, Banking, and Judiciary. H.R. 1799 includes a tax deferral title, which extends Domestic International Sales Corporation (DISC) tax deferral status to ETCs, so this bill has also been referred to Ways and Means.

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The New England Congressional Institute is an independent, nonprofit, nonpartisan, policy research organization guided by a distinguished thirty-five member Board of Advisors. The Institute is incorporated in Washington, D.C. under the Non-Profit Corporation Act and has been granted tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954. Utilizing innovative project designs which are replicable in other regions, the Institute conducts balanced and objective policy research on national policy questions which are most effectively analyzed on a regional rather than a state or national level.

The New England Congressional Institute is funded by private foundation, government, and corporate grants. These include the Rockefeller Brothers Fund, Department of Energy, Massachusetts Port Authority, and corporate associations like the New England Council.

The Institute is committed to a proven combination of organized public participation and indepth research to weigh the complex economic, social, and environmental values that characterize the major policy issues of the 1980's. As indicated below, most of the Institute's projects are managed jointly with organizations based in New England. This allows the Institute to serve as a significant resource to the New England Congressional Caucus and other regional and national organizations.

SCOPE OF ACTIVITIES

Among the issues addressed by the New England Congressional Institute are energy, economic development, environmental quality, international trade, transportation, social equity, and education.

Institute projects include:

- NEW ENGLAND ENERGY CONGRESS—A first-in-the-nation effort which has succeeded in forging a consensus among industry, environmentalists, utilities, consumers and numerous other constituencies on a regional energy action program. It is the core program of the Institute's energy policy capability and conducts energy research and analysis, runs regional workshops and conferences, and participates actively in regional energy/environment conflict resolution projects. Initially funded in 1978 by the Office of the Assistant Secretary for the Environment, U.S. Department of Energy, the Institute has been granted continuation funding for the Energy Congress through 1982.

- EXPORT TRADE PROJECT—This project is designed to assess the impact of federal export policy on the economic future of New England. It examines the pros and cons of export trading company legislation, anti-trust legislation, anti-boycott law, and tax deferral programs. The project is being conducted jointly with MASSPORT, who has committed $30,000 toward the project's successful completion.

- ECONOMIC DEVELOPMENT PROJECT—Cosponsored with the Council for Northeast Economic Action, this project has been granted $75,000 by the Rockefeller Brothers Foundation. Project plans call for extensive research in New England and in Washington, and field hearings across the region, to assess the contribution of federal credit programs in leveraging cooperative public/private economic development efforts.

- CONVENTIONAL FUELS PROJECT—This project conducts economic analysis on oil, gas, coal, electric utility and synthetic fuel issues in New England. In addition, the project assesses the impact of policy on the region's low income population.

- HIGHER EDUCATION/MANPOWER PROJECT—Cooperating with the New England Board of Higher Education, the New England Council, and the American Council on Education, this project is developing strategies for regional economic development which address a dual problem: an enrollment drop for higher education of 39% predicted for 1990, and a projected labor shortfall of 40% in the high technology industry.

- Energy Forum in New England—Energy Forum is a quarterly newsletter/journal designed to address regional energy activities and issues. Energy Forum is distributed free of charge and is funded by the U.S. Department of Energy's Office of the Environment.

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Export Trading Company
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Legislative Recommendations

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THE NEW ENGLAND CONGRESSIONAL INSTITUTE'S EXPORT TRADING COMPANY TASK FORCE

Introduction

The New England Congressional Institute's Export Trading Company Task Force was established in February 1981. Composed of New England businessmen from large and small firms, labor leaders, bankers, export managers, and regional economists, the goal of the Task Force has been to evaluate competing policy priorities inherent in export trading company legislation, and to analyze the possible effects of that legislation on New England's economy. An essential part of the public participation component of the Institute's Export Trade Project, the Task Force had been meeting on a regular basis since its inception in February.

The Task Force has been assisted in making the recommendations contained in this report by an opinion survey conducted by the New England Congressional Institute in April 1981, and by the opinions expressed at a public forum, EXPORT TRADING COMPANIES, co-sponsored by five regional organizations on June 15, in Providence, Rhode Island.

The body of this report has five sections; a statement of support for the concept of export trading companies, three sets of recommendations on banking, antitrust, and certification issues, and additional recommendations on funding priorities.

The appendices following the report include statistics on export trade in New England, information on the results of the regional survey, and a summary of proceedings from the regional policy forum.

Copies of the full survey report and the transcript of the conference are available from the Institute's office in Washington for a nominal fee to cover the cost of duplication and mailing.

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NEW ENGLAND CONGRESSIONAL INSTITUTE'S

EXPORT TRADING COMPANY TASK FORCE

Summary of Recommendations

In the light of the continuing debate over crucial segments of the export trading company legislation in the U.S. Congress, and after careful consideration of the policy questions underlying current proposals, and understanding the need for expansion of exports in New England, the New England Congressional Institute's Export Trading Company Task Force has formulated the following recommendations. A full explanation and justification for these recommendations follows this summary.

The Export Trading Company Task Force finds that:

1. As one of the most export-oriented regions in the nation, New England stands to benefit significantly from the enactment of export trading company legislation. Survey results suggest that more than $500 million in export trade could be generated in New England by the passage of the legislation.

2. If the recommendations of bank regulatory agencies can be incorporated into ETC legislation, bank participation in ETCs poses little threat either to the safety and stability of the banking system in New England, or to fair competition.

3. Threat of antitrust prosecution has been a major disincentive to the development of joint export ventures by smaller and medium-sized businesses, and prior exemption from antitrust prosecution should be provided to ETCs through a certification process based in the Justice Department.

4. Export-Import Bank guaranteed loans are a key component of the ETC legislative package. In addition, sufficient funding to publicize and administer the ETC legislation is needed to insure that ETCs will be utilized by smaller banks and businesses.

RECOMMENDATIONS OF THE NEW ENGLAND CONGRESSIONAL INSTITUTE'S

EXPORT TRADING COMPANY TASK FORCE

I. Statement of Support for Export Trading Company Legislation

The Task Force on Export Trading Company Legislation has been influenced in their decision-making process by the importance of exports to the New England region. In 1980, the six New England states generated over $10 billion in export sales. An estimated 135,000 jobs in New England are a direct result of export sales.

When asked to predict the effect of passage of ETC legislation on their companies' receipts in the New England Congressional Institute survey conducted in April, 57% of the export trading company respondents estimated an increase of over 25%. All of the respondents indicated increases of at least 5%. Applying the lowest of those estimates to current export data suggests that the potential effect of ETC legislation in New England means 500 million dollars earned in export sales, and over 10,000 jobs.

The concept of ETCs is a good one, and represents a long overdue U.S. response to competition from our trading partners. As envisioned by the sponsors of the legislation, export trading companies would provide one stop export assistance to smaller and medium-sized companies, including finance, marketing, legal and foreign exchange services, and warehousing and transportation facilities.

In addition, Congressional legislation designed to foster the establishment of such companies in the United States is a constructive and positive response to increased international competition.

In the light of this analysis, the Task Force has worked diligently to generate answers to the difficult policy questions raised by the proposed legislation. The recommendations proposed here are the result of those deliberations.

It is hoped that these recommendations will facilitate the final negotiations which will lead to the passage of effective export trading company legislation by the 97th Congress.

Legislative History of ETCs: The concept of export trading companies has been around for some time; Congressional efforts to stimulate their development in the United States started in 1977. In 1979, the Senate passed an Export Trading Company bill similar to the ones currently under consideration, although the House was unable to complete action on the bill before the end of the 96th Congress.

At the time this report is being written, the Export Trading Company Act of 1981 (S. 734, Heinz, R-PA) has been passed by the Senate, 93 to 0, and several similar bills are under consideration by the House Banking, Foreign Affairs, and Judiciary Committees (H.R. 1648, H.R 1799, H.R. 2123, H.R. 2326 and H.R 2851). Except for H.R. 2326, all these bills allow banks to invest directly in and to control export trading companies, and provide for a certification process for ETCs to grant them immunity from antitrust prosecution with regard to their export activities.

In order to simplify discussion of legislative proposals in this report, unless otherwise stipulated, discussion of ETC legislation refers to the bill passed by the Senate (S. 734). The companion bill in the House is H.R. 1648.

Justification for Export Trading Company Legislation in 1981: Throughout the period of development of all the ETC bills, interest in export trading company legislation has remained high, both in the New England delegation and in the Congress as a whole. Two major justifications have impressed the Task Force, the deficit in the U.S. merchandise trade balance, and interest in increasing the number of U.S. companies that export. The first reason for the continuing interest has been well documented:

- Since 1960 the U.S. share of world trade in manufactured goods has slipped from 25% to 18%.
- The U.S. has accumulated a $100 billion merchandise trade deficit in the last four years, in large part due to the increasing costs of energy imports.

Despite these indications of a long-term weakness in America's trade position, those who oppose ETC legislation suggest these figures are misleading. They cite the recent improvement in the current account, a $3.7 billion surplus in 1980, as an indication that ETC legislation is not necessary at this time, particularly when weighed against the uncertainties of innovative proposals.

Experienced trade analysts, however, advise that projecting an ongoing improvement in the U.S. trade position on the basis of short term shifts is very unwise. The United States should not be lulled into a sense of false security by fluctuations in quarter to quarter, or even year to year balance of trade figures. The reality of international trade in the coming decades is one of increased competition.

The second justification for export trading company legislation is of particular interest to the Task Force, which recognizes the need for widening the manufacturing base on which export development will depend in the future.

The U.S. Department of Commerce estimates:

- 250 firms do 80% of all U.S. exporting;
- only 10% of the estimated 250,000 U.S. manufacturing firms export at the present time; and,
- over 20,000 U.S. manufacturers are able to export but do not do so.

Interest in ETC legislation in New England: New England, which has over 25,000 manufacturing firms, has a growing interest in export trade among its small and medium-sized firms. In the opinion survey conducted by the New England Congressional Institute in April, 52% of the manufacturing sector respondents indicated they would be interested in utilizing the services of an ETC. Of these, 24% do not currently export. The survey appears to indicate that several thousand New England firms are interested in using the services of an export trading company.

The Smaller Business Association of New England (SBANE) has been a strong supporter of the ETC concept from the beginning. SBANE envisions ETCs being formed by several medium-sized businesses, probably, but not necessarily, in conjunction with an already established export management company, and with the help of additional bank investment and financing. This type of ETC would allow smaller companies to pool their resources and provide more cost effective export services. Central to the success of this type of ETC would be assistance from the Export-Import Bank in the form of loan guarantees.

In addition to the support from the smaller business sector, the New England banking community, particularly city-based banks with international trade departments, have been eager to see export trading company legislation pass with provisions that banks be allowed to participate and control ETCs. The thirty-three banks from New England who responded to the opinion survey including small and large banks from all six states, all indicated that banks should be allowed to invest in and control ETCs if they wished to do so.

II. Bank Participation in ETCs

Considerable controversy has surrounded the question of bank participation in ETCs. The intent of the Senate-passed legislation is to allow banks to invest in, and to control, export trading companies.

Direct involvement in ETCs by banks is a departure from traditional banking practice in the United States, which since the 1930's has maintained a strict separation between banking and commerce. The justification for this exception to the rule is that banks have international contacts and networks already in place to establish successful ETCs,

and that only banks have the availability and concentration of capital necessary to underwrite major export projects. Spokesmen from the banking community have indicated that without a controlling interest in an ETC, many banks would be unwilling to make major investments in ETC development.

Bank control of ETCs is questioned on several grounds: one, that majority investments in ETCs by banks may threaten the safety and soundness of bank assets, and two, that bank-financed ETCs would have an unfair advantage over other trading companies because of their access to capital and control of credit and foreign exchange transactions.

The question of bank control of ETCs, as opposed to bank minority investment, has threatened to stall the current momentum behind export trading company legislation. At a time when the banking industry is undergoing some major changes, granting permission for banks to control commercial ventures like ETCs is being carefully scrutinized, since it may have important implications for the pending legislation. The Task Force has been sensitive to these concerns, and has spent considerable time addressing safety and soundness issues.

ETCs and the safety of the U.S banking system: The language of the ETC bill passed by the Senate contains limitations designed to insure the safety of bank investments. The legislation states that banks may not invest more than 5% of their capital and surplus in ETCs; if credit extensions are included, they may not invest more than 10%. Also, any bank investment of more than $10,000,000 requires prior approval by the appropriate federal banking agency.

In addition to these restrictions, S. 734 contains a series of statements of intent regarding bank participation:

- Section 105 (c) (3) allows the appropriate Federal banking agency to prohibit or place limitations on bank ownership of an ETC if the company has dealings in commodities, securities or foreign exchange "other than may be necessary in the course of its business operations." Bank sponsored ETCs can buy and sell securities only to the extent that their banking organization investors may do so.

- Section 105 (d) (1) allows bank regulatory agencies to deny a bank investment in an ETC if such an investment is outweighed by the public interest, or by "adverse financial, managerial, competitive or other banking factors."

- Section 105 (d) (2) empowers federal banking agencies to impose any conditions they consider are necessary to guard against unsafe or unsound banking practices, including inventory-to-capital ratios.

In interpreting all of the above provisions, the Task Force realizes that it may be necessary to make minor adjustments in the legislative language of the ETC bill passed by Congress if it is in the best judgment of federal bank regulators that legislative language rather regulatory clarification is necessary.

When the above provisions are combined with the recommendations in the following section defining the limits on bank participation in ETCs, the Task Force finds that the legislation will have appropriately and adequately addressed the concern for the stability and soundness of the banking system.

Credit, tie-ins, and concentration issues: Although the two issues overlap considerably, the question of concentration has been more difficult to solve than the safety and soundness issue, because the extent to which concentration is a positive or negative virtue is a judgment of degree, not absolutes. Bank failure can be measured and protected against; unreasonable concentration of funds cannot be defined so easily.

Recognizing that bank ownership of ETCs has been a primary goal of export trading company legislation, the final consideration in the debate on whether or not banks should be given this ability has to be the question: Will a sufficient number of banks with the necessary international experience, and required capital resources, participate in ETC development and investment if they are not given the ability to control ETCs?

The Institute survey of banks in New England, particularly the medium-sized regional banks with international experience which the legislation's sponsors see as prime beneficiaries of ETC legislation, revealed that some banks are eager to participate in ETC investment even without the ability to control ETC management.

Added to this knowledge is the perception of those experienced in international trade that bank investments and cooperation are essential to ETC success, but that bank managing interest is not essential. In some cases bank management practices might be incompatible with the kinds of risk evaluation made on a daily basis by export traders.

Another factor taken into consideration is the concern that a large ETC, with antitrust exemptions for their foreign operations, might have an unnecessary influence over regional development of export opportunities.

Finally, the testimony of export management company (EMC) managers at the Providence Conference on ETCs must be taken into account. EMC presidents and managers expressed considerable concern that regulations imposed on bank-controlled ETCs might affect the activities of all EMCs, including those already operating on an independent basis. They stated that the ETCs envisioned by this legislation would be better

off without provisions allowing bank ownership, because bank control would necessitate additional regulations which could only hamper successful ETC operations.

After considerable discussion, the Task Force recommends that bank regulatory agencies have to be given the final responsibility for determining the amount of bank participation in ETCs. Both the Federal Deposit Insurance Corporation and the Federal Reserve Board have recommended that a limit of 19.9% be placed on bank investment in any given ETC. The recommendation should be taken into account in the final framing of ETC legislation.

III. Antitrust Recommendations

The changes in antitrust law found in ETC legislation are important for two reasons. Under current law (most notably the Webb Pomerene Act of 1919) the antitrust exemptions given to trading associations apply only to manufactured goods, not to services. One of the most essential changes envisioned by this legislation is to allow trade associations and trading companies to be utilized by the service industry. Recognizing the growth potential for services in New England, the Task Force heartily endorses this change. The second vital antitrust aspect of the legislation is the attempt to provide businesses with more certainty about the application of antitrust laws to foreign trade ventures.

As described by American businessmen from both small and large firms, the problem with the overseas application of antitrust laws is not the successful prosecution of antitrust violations. On the contrary, it is the threat of protracted antitrust litigation which concerns export traders interested in creating consortium or pursuing joint ventures. This is particularly true for smaller businesses, with limited profit margins, which find the prospect of the legal fees necessary to fight antitrust suits sufficient to restrict their interest in innovative marketing arrangements with complementary corporations.

All of the ETC bills under consideration provide some relief for the uncertainties of antitrust law and foreign trade. The Task Force recognizes the problems in current antitrust law, and endorses Congressional efforts to solve the problem.

The location of antitrust certification procedures: After careful consideration of the pros and cons of the certification procedures proposed by the various bills under consideration the Task Force concludes that the Justice Department is the appropriate location for certification of exemption from antitrust prosecution.

Some doubt has been expressed that the Justice Department is the appropriate agency to certify ETCs (S.734 for example

gives certification authority to the Department of Commerce), because of its reputation in the business community for aggressive pursuit of antitrust prosecutions in the past. However, to switch the authority for interpreting antitrust law to the Department of Commerce, and simultaneously limit the funds needed by Commerce to enforce their decisions, means that effectiveness of the antitrust certification process would be severely jeopardized.

To reduce the burden of interpretation of the law for the business community, the Justice Department would be required to issue,within 90 days of the legislation's passage, guidelines outlining what does and does not constitute antitrust violations in overseas trade.

In addition, while developing procedures and regulations, the Justice Department would be required to seek the guidance of the Department of Commerce with regard to trade promotion considerations.

With the certification process lodged in the Justice Department, the Task Force endorses the sections of S. 734 which propose that companies will not be liable for retroactive prosecution on antitrust violations. Once given certification for certain export activities by the Justice Department, export trading companies could conduct their export trade free from the fear of antitrust prosecution as long as their certification remained in effect.

IV. Certification of ETCs

If certification of ETCs is shifted to the Justice Department as recommended in the previous section, many of the difficulties with the certification process as it is proposed in S. 734 will be alleviated.

That bill proposes a certification process based in the Department of Commerce, which would be required to consult with both the Justice Department and the Federal Trade Commission before issuing a certificate providing exemption from antitrust prosecution. The Task Force concludes that the process outlined in that proposal is a cumbersome one, involving three agencies, potentially several months of delay, and the prospect of prolonged suit and countersuit activity. In addition, a certification process which involved three agencies raises doubts about the ability of the government to keep proposed trading activities confidential. Locating the antitrust certification process in one agency minimizes the extent to which government bureaucratic action might delay export trading activities.

V. Additional Recommendations

Export-Import Bank participation: The Ex-Im Bank guaranteed loan program proposed by S. 734 is essential to the successful use of ETC bill provisions by smaller businesses. This is a top priority of the smaller business community, which has long been concerned that the services of the Ex-Im Bank are relatively inaccessible to them.

As this report is being written, conferences between the House and Senate are being conducted to determine the 1982 Ex-Im Bank budget. If this ETC legislation is going to be successful in expanding the export capabilities of smaller businesses, and successful in including smaller regional banks in ETC development, then Export-Import Bank appropriations need to be maintained at current levels or increased to insure a broad spectrum of participation in ETCs.

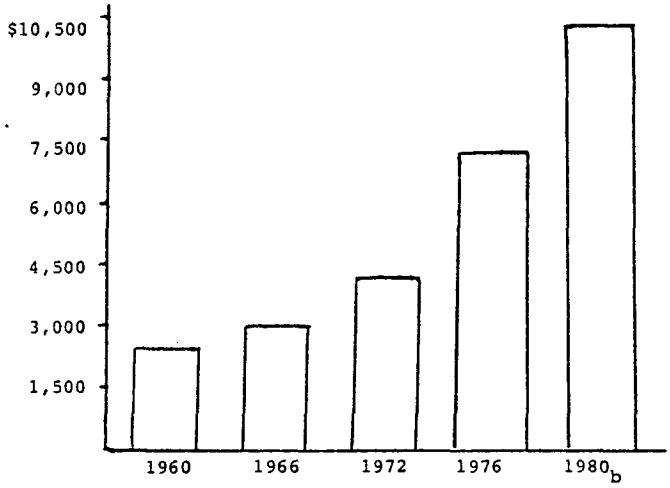
Authorization for implementation: In order to implement the intent of ETC legislation, i.e., to encourage exporting by smaller and medium-sized companies, sufficient funding must be set aside in the budget of the Department of Commerce to insure that adequate information about ETCs and new antitrust certification procedures are available to many companies. Without this technical assistance to smaller banks and companies, it is possible that ETC participation would be skewed in favor of larger firms. Given the budget-cutting climate in Washington at the present, it is understandable why the $20,000,000 per year authorization originally included in S. 732 was defeated by the full Senate. However, given the long-term importance of developing export markets, the Task Force recommends that the Department of Commerce reorient presently availabe export promotion funds to emphasize and promote ETC participation by smaller and medium-sized firms.

Import restrictions on export trading company activities: Section 103 (a)(2) of the Senate ETC bill defines U.S. goods to be goods which "the cost of the imported raw materials and components thereof shall not exceed 50% of the sales price." While the intent of the legislation is clear, to encourage the export of U.S. goods, if this definition is applied to individual trade transactions of an ETC, it may interfere unnecessarily with the successful operation of U.S. export trading companies. As experienced international traders know, most trade deals are consummated by negotiating both the buying and selling of goods. To limit American ETCs to dealing only with goods "the cost of which has been produced at least 50% in the United States," may inadvertently make U.S. based ETCs noncompetitive with those based in other countries. Therefore, the Task Force recommends that this section of the law be rewritten to make the intent clear: that ETCs must, within a reasonable time frame, deal primarily with products produced at least 50% in the United States. The time frame for enforcing this regulation can be determined by the Department of Commerce, and could be included as part of the regular reporting requirements of certified ETCs.

Appendix A:

Growth in Manufacturing Exports from New England

(millions of 1980 dollars)[a]



(a) Current dollar values inflated using implicit GNP price deflator. Current amounts are listed in Chart II.

(b) 1980 export figures based on estimates supplied by state Departments of Commerce and Economic Development.

Source: Unless otherwise noted, all figures in Appendix A derived from Survey of the Origins of Exports of Manufacturers, U.S. Bureau of the Census, 1966, 1969, 1971, 1972, 1976.

Employment Effects of Export Trade

The employment effects of export trade in New England are significant. While it is difficult to calculate the ripple effect export sales have on total employment figures, most analysts agree that over 20% of New England's employment is generated by export trade.

A standard indication of export-related employment utilized by the U.S. Department of Commerce is that 20,000 jobs are generated per $1 billion in export sales. Conservative estimates then are that over 135,000 jobs are directly related to export sales in the New England region today. Considerably more jobs are affected indirectly by export trade patterns.

Direct Export Related Employment in New England[a]

	1960	1966	1972	1976	1980
Connecticut	15,200	16,600	25,600	36,500	49,700
Maine	1,500	1,600	2,400	4,200	5,300
Massachusetts	14,600	20,400	34,500	48,200	52,800
New Hampshire	1,700	1,700	3,600	6,500	12,400
Rhode Island	2,500	3,100	3,600	5,800	10,100
Vermont	900	1,400	1,800	3,500	5,500
Total	36,400	44,800	71,500	104,800	135,800

(a) U.S Department of Commerce statistics have been used for the years 1972 and 1976, the only years for which published estimates are available. Years 1960, 1966 and 1980 have been estimated based upon the ratio of 20,000 jobs per $1 billion real value of exports.

Chart II

Value of Exports from New England by State

(millions of dollars)

	1960	1966	1972	1976	1980	
Connecticut	400.0	489.0	848.0	1,958.0	3,796.0	current $
	1,000.0	1,124.7	1,526.4	2,345.4		1980 $
Maine	42.0	49.0	83.0	255.0	300.0	current $
	105.0	112.7	149.4	331.5		1980 $
Massachusetts	386.0	600.0	920.0	2,502.0	4,620.0	current $
	965.0	1,380.0	1,656.0	3,252.6		1980 $
New Hampshire	46.0	52.0	103.0	291.0	590.0	current $
	115.0	119.6	185.4	378.3		1980 $
Rhode Island	66.0	92.0	107.0	268.0	485.0	current $
	165.0	211.6	192.6	348.4		1980 $
Vermont	23.0	43.0	52.0	200.0	350.0	current $
	57.5	98.0	93.6			1980 $
Total	963.0	1,325.0	2,113.0	5,474.0	10,141.0	current $
	2,407.5	3,047.5	3,803.4	7,116.2		1980 $

(a) 1980 figures are estimates provided by State Departments of Commerce and Economic Development

(b) 1980 $ values calculated using implicit GNP price deflators

Appendix B:

Executive Summary of Results
Survey on Export Trading Company Legislation

Charlotte D. Staelin

May 22, 1981

INTRODUCTION

In response to increasing Congressional interest in export trading company (ETC) legislation, the New England Congressional Institute conducted a month-long survey designed to assess opinion about the legislation in New England. Over 650 businesses and banks were contacted in the six-state region (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont).

This summary includes the major findings of the survey, and a brief methodological review. Particular emphasis has been placed on survey data which may aid in resolving those legislative issues which remain to be negotiated.

A complete description of the survey sample, questionnaires, and methodology is included with the full survey report, which is available from the New England Congressional Institute.

SUMMARY OF SURVEY RESULTS

Survey respondents were divided into three broad categories: manufacturing and service firms, banks, and export management companies. This summary of results will outline the responses of each of these three groups.

Manufacturing and Service Firms: Several interesting trends emerged from the responses received from manufacturing and service firms. The three highlighted below give an indication of the level of interest in the legislation, and the extent to which its provisions are understood in the business community.

- The smaller business community in New England is keenly interested in legislation which might enable them to increase their export potential, regardless of their prior export experience. Despite the fact that the original sample was balanced between businesses of all sizes, 89% of the responses in the manufacturing and service sector came from firms with less than $50 million in annual sales and less than 500 employees. (82% of the responses were from businesses with less than $10 million in annual sales.) 50% of all survey respondents indicate that they currently export less than 10% of their sales.

- While 89% of the respondents from the manufacturing and service sector stated that they were only somewhat or not at all familiar with proposed ETC legislation, over half state they want to utilize ETC services. The expertise that businesses need most urgently are marketing (76%) and financing (69%).

- The extent to which firms were unfamiliar with the details of the legislation is reflected in their responses to questions about specific provisions. This section of the survey is notable for its lack of consistancy, with yes, no, and uncertain responses almost evenly distributed on every question.

Banking Sector: Since the direct participation of banks in export trading companies has generated considerable discussion, and because the issues are complex, a phone as well as a written survey was conducted of 39 banks and state banking associations throughout the six New England states. Most of the respondents were small to medium-sized, full service banks. 71% had assets of less than $450 million, 38% had assets of less than $50 million.

- Larger banks located in major metropolitan areas have been outspoken in their support of legislation which allows banks to have control of ETCs; to date there has been relatively little documentation of the interests of smaller, regionally-based banks. Despite considerable discussion in trade journals about upcoming legislation, few of the bankers surveyed were aware of specific provisions. 66% of the total respondents indicated they were only somewhat or not at all familiar with proposed ETC legislation.

- Despite their relative lack of familiarity with the legislation's provisions, 100% of the banks surveyed indicated that banks should be allowed to invest in and control ETCs if they choose to do so.

- Regardless of the size of their bank assets, 92% of bank respondents assumed that larger banks, already active in international trade transactions, would be the primary initiators of ETCs. Smaller regional banks indicated they hoped to be able to offer extended trade-related services to their clients through their correspondent relationships with city-based banks.

- In response to questions about the antitrust implications of the legislation (i.e., does prior antitrust certification of ETCs threaten to give large banks and large companies an unfair competitive advantage), 80% of the bank respondents indicated that the regulations as proposed in S.734 were appropriate and sufficient.

Considerable interest has been generated by the question of whether or not banks should be allowed to control ETCs, and whether or not banks would be willing to invest in ETCs if the legislation prohibited them from having a controlling interest.

During interviews with bankers, a variety of responses were encountered. Some indicated that they had strong reservations about relinquishing corporate control, and said they would not be interested in ETCs unless they were able to maintain a majority share of the stock. Other bankers suggested that they would prefer to invest in an experienced export management firm, and remain somewhat distant from day-to-day management decisions. Qualifying all of their statements were indications that decisions on this would be based upon individual circumstances after the legislation is complete.

Some concern was expressed by the banking community that the certification and regulatory procedures currently proposed might be an additional burden on their institutions. Indeed, the mention of bank regulation as a general topic tended to elicit extended comment on the excessive nature of already existing statutes.

Export Management Companies: Utilizing published lists and personal networks of the Institute's Export Trading Company Task Force Members, as complete a list as possible was compiled of export management companies currently operating in New England. Not surprisingly, 34% of these companies were very familiar with the legislation, another 53% rated themselves as somewhat familiar. Most of the companies responding to the survey were small: 75% have annual sales of less than $4 million; 85% have less than 25 employees.

- Despite the fact that some alarm was registered in the "additional comments" section of the survey that their small, independent operations

could suffer badly from competition from bank financed ETCs if this legislation is passed, 73% of the respondents indicated that they would want to be certified as an ETC with the Department of Commerce.

- Over half of the respondents indicated they would like to cooperate with a bank in a joint venture ETC. Those who question the advisability of doing so expressed concern that banks would want to control the day-to-day management of such a joint venture, not just the financing, and stated that they would want to participate only if very specific contractual agreements were met.

- 100% of those polled indicated they felt that the ability to offer direct financing to their clients would increase their sales; 57% expected an increase of over 25%. 36% stated that this capability would increase their sales by 11% to 25%.

METHODOLOGY

The sample for this survey was generated from a random sample of published lists, membership lists of regional business organizations, and a network of contacts developed through the New England Congressional Institute's Export Trading Company Task Force. The original sample contained 662 names: 101 banks, 76 export management companies, and 485 manufacturing and service firms. The response rate, including follow-up phone calls, was 29%.

The survey questionnaire was divided into four parts with questions covering the following topics: 1) knowledge of ETC legislation, 2) corporate planning, i.e., to what extent did the respondents expect ETCs would be utilized in the region, 3) opinions on specific aspects of the legislation, and 4) identification of the respondent by firm size, prior export experience, etc.

The survey was conducted by mail and by phone between April 10 and May 15, 1981. Final tabulations were completed by May 22.

Appendix C:

EXPORT TRADING COMPANIES

Regional Symposium Proceedings:
Executive Summary

June 15, 1981

EXPORT TRADING COMPANIES

Monday, June 15, 1981
Biltmore Plaza
Providence, R.I.

9:00 REGISTRATION

9:30 WELCOME

CLAUDINE SCHNEIDER, Member, U.S. House of Representatives

H. BAILEY SPENCER, Executive Director, New England Congressional Institute

9:45 LEGISLATIVE OVERVIEW

STEWART B. McKINNEY, Member, Banking Committee, U.S. House of Representatives

10:45 EXPORT TRADING COMPANIES IN OPERATION: Who will invest? How will they be organized? What services will they offer?

DAVID J. ASHTON, Chair, Department of International Management, Boston University, MA

R. RONALD GUERRIERO, President, World Trade Group, Portland, ME

DAVID M. KELLOGG, Vice President, International Division, State Street Bank, Boston, MA

THOMAS SCHINKEL, President, Thomas Schinkel and Associates, Lexington, MA

11:30 EXPORT TRADING COMPANY SURVEY RESULTS: An Overview of Regional Opinion

CHARLOTTE D. STAELIN, Senior Research Associate, New England Congressional Institute

12:00 LUNCHEON AND KEYNOTE ADDRESS

LIONEL H. OLMER, Undersecretary for International Trade, U.S. Department of Commerce

1:30 PERSPECTIVES ON BANK PARTICIPATION IN ETC'S: The Glass/Steagall Act, Safety Net or Barrier to Competition?

RICHARD L. STILL, Staff Director, Subcommittee on Financial Institutions, U.S. House of Representatives

2:15 ANTITRUST, CERTIFICATION AND REGULATORY ISSUES: Perspectives from Small Business, Large Corporations, and the Legal Profession

GREGORY W. JORDON, Director, International Trade Department, Pratt and Whitney Aircraft, East Hartford, CT

A. JASON MIRABITO, Professor of Law, Suffolk Law School, Boston, MA

ROBERT ZISA, President, Zed Company of America, Winthrop, MA

Executive Summary:
Export Trading Companies - June 15, 1981

Introduction

The Export Trade Project of the New England Congressional Institute is designed to analyze the underlying issues and long term implications for New England in federal export legislation, and to make policy recommendations that are relevant for Congressional decision-making. As a part of this process, the Project holds periodic public forums in the New England region to debate export policy issues. In Providence on June 15, the Institute sponsored a day-long conference on Export Trading Companies (ETCs), the proceedings of which are outlined below.

The goals of the conference on Export Trading Companies were to inform regional businessmen and bankers about federal ETC legislative proposals, to aid New England businesses in assessing the possible impact of this legislation on their export sales, and to provide a forum for New England to respond fully to proposed federal legislation.

This summary has five parts: An explanation of the need for ETC legislation as presented by conference participants, a discussion of the organizational forms which ETCs might take if proposed legislation is passed, perspectives on bank participation in ETCs, a discussion of antitrust and certification issues, and a brief review of survey results on ETC legislation conducted by the New England Congressional Institute.

For those who are interested in fuller coverage of the issues and individuals involved, a copy of the transcript of the conference, complete results of the ETC opinion survey, and ETC issues' memo are available from the Institute for a nominal fee to cover the cost of printing and mailing.

Participant Discussion of the Need for Export Trading Companies

Several of the conference participants outlined the deteriorating position of U.S. trade in the international market, the need for assistance to small and medium-sized firms, and the difficulty of obtaining adequate and timely financing for export projects. Conference speakers and participants called for a unified effort on the part of business and government to formulate a national export policy which would enable the U.S. to compete more effectively in international markets. The sense of the meeting was that ETC legislation was one part of a larger effort to allow American business to respond effectively to increasing competitive pressures.

ETC Legislation and its Effect on Exporting Practices

At the time of the conference, the Export Trading Company Act of 1981 (S. 734, Heinz, R-PA) had passed the Senate 93-0; and companion bills (HR 1648, 1799, 2123 and 2326) were under consideration by House Committees. All of these bills allow banks to invest directly in and to control export trading companies, and provide for a certification process for ETCs to grant them immunity from antitrust prosecution with regard to their export activities.

ETC legislation was drafted with the intention that a variety of organizational forms might develop, both with and without bank participation. Considerable discussion centered around the chart of possible organizational forms for ETCs presented by the first panel. General support was voiced for the idea that U.S. ETCs need time to develop their own organizational structures. Some concern was expressed that ETCs, by their focus on exporting, may be less useful than they would be if they were designed to be full service import-export trading companies. The general sense of the meeting was that, whatever specific organizational or contractural agreements were developed, ETCs would include advantages for both large and small companies and should involve bank participation.

Bank Participation in Export Trading Companies

Most conference attendees, including a number of representatives from New England banks, assumed that bank participation in the development of ETCs is a logical and viable connection. The need for adequate capitalization for exporting companies and adequate financing for export deals is a pressing one. There was little consensus among the conference attendees, however, that bank participation must include bank control. Rather, during the discussion of bank investment in ETCs, several people questioned whether majority bank ownership was necessary for ETC success. Others suggested that additional sources of funding could be sought from other investors, and that initial inputs of capital from banks might be an important first step, not necessarily the final goal.

In the presentation of survey results on bank opinion on ETCs in the six state region, it was noted that the banking community is not of one mind on the issue of bank control of ETCs. Many banks have insisted they would not participate in ETCs if they were unable to control them, some feel that investment decisions would be made on an individual case-by-case basis. The larger banks in the region have been very vocal in their support for ETC legislation, while smaller banks have tended to assume that the legislation would be of primary interest to larger, city-based banks with fully developed international departments.

Full discussion of bank participation in ETCs was announced to be the central focus of upcoming comprehensive hearings planned by the House Banking Committee, which will hold hearings on ETCs once the other committees of the House have completed their deliberations.

Antitrust and Certification Issues

Considerable discussion at the conference centered around the fears of smaller, independent export management firms that bank-capitalized or sponsored ETCs would have an unfair advantage over smaller ETCs. In response to this concern, others from the exporting field responded that successful alliances between export management firms and banks were to be saught out and cultivated, and that there could be considerable advantages to the smaller firms in making such contractural arrangements.

The interest of larger corporations in Export Trading Companies was described as "passive" by one conference participant. Most larger corporations are looking closely at the antitrust provisions of the legislation to assess the possible advantages to their export efforts, but few have active plans to form an ETC, nor has active lobbying for ETC legislation been a major priority for them.

Several speakers noted that the convoluted certification procedures outlined in the Senate ETC bill (S. 734) could make the legislation less effective. It was recommended that the process be simplified, shortened, and involve only one federal agency. Some concern was expressed that the currently existing industry of export management firms, which is operating independent from government regulation, might eventually suffer from increased regulatory control if the legislation is passed, whether they choose to form an alliance with a bank or not. A representative from the legal profession suggested that the Justice Department was the logical agency to handle the certification process, not the Commerce Department as is proposed in the Senate passed legislation.

The overwhelming consensus of the meeting was that American businesses need additional incentives to encourage them to compete effectively in the international market, and that carefully designed ETC legislation is one of the vehicles which will aid in this effort.

EXPORT TRADING COMPANIES IN THE UNITED STATES

What might they look like if ETC legislation is passed by Congress?

	Who would invest?	How would they be organized?	What services would they offer?	Who would use their services?
FULLY INTEGRATED TRADING COMPANY	[banks] corporations venture capitalists individual investors	top management would be professional managers; bankers participating, not necessarily controlling; product traders and managers organized by product area	complete trade services including: financing, buying, selling, bartering, counter trade, compensation trade, marketing, transportation, etc.	small and large companies U.S. and worldwide
SPECIALITY TRADING COMPANY	[banks] corporations which manufacture and service the major product	one or two major product categories e.g. chemicals, petrochemicals, metals, etc.		American producers of the major product
INDUSTRY-ORIENTED TRADING COMPANY	[banks] clusters of industry related companies stimulated by industry associations and/or private initiative	cluster of related non-competitive products e.g. spare parts and consumable items for machinery	"	smaller and medium-sized companies
SMALL AND MEDIUM-SIZED COMPANY CONSORTIUM	[banks] small companies (pooling their resources)	most likely to be organized around related product areas	"	smaller and medium-sized companies
CORPORATE TRADING COMPANY	[banks] single company is major and/or first investor	several possible forms: domestic ETC foreign ETC DISC subsidiaries	"	one corporation its suppliers and subsidiaries

Mr. McKinney. In addition, several members of the task force have come here today to provide you with their personal observations about the use of the export trading companies. As one of its activities during the past year, the task force initiated a regionwide survey to determine the level of interest in export trading companies in New England and the potential impact export trading companies might have in the region.

I would like to outline the results for you briefly this morning. Over half of the respondents, the vast majority of which were small businesses exporting less than 10 percent of their sales, indicated they want to utilize services provided by the export trading companies. Significantly, 76 percent said they needed marketing assistance, and 69 percent said they needed financing assistance.

All of the banks surveyed in New England, which included many of the smaller regional banks, stated that banks should be allowed to invest in and control export trading companies if they chose to do so, and all of the export management firms responding to the survey felt that their ability to offer direct financing to their clients would significantly increase sales.

As a result of this survey and after considerable discussion and debate, the task force issued its legislative recommendations last summer. While some of these recommendations fall outside the specific focus of the legislation here before us today, I think they are worthy of our attention.

I believe each of you has a copy of these recommendations. Briefly, the New England Institute Export Trading Company Task Force finds that: As one of the most export-oriented regions of the United States, New England stands to benefit significantly from the enactment of export trading company legislation. Survey results indicate that the potential effect of export trading company legislation in New England means $500 million earned in export sales and as many as 15,000 jobs.

If the recommendations of the bank regulatory agencies can be incorporated into the export trading company legislation, bank participation in export trading companies poses little threat either to the safety and stability of the banking system in New England or to their competition.

Threat of antitrust prosecution has been a major disincentive to the development of joint export ventures by smaller and medium-sized businesses and prior exemption for antitrust prosecution should be provided to export trading companies through a certification process based in the Justice Department.

Export-Import Bank guaranteed loans are a key component to the export trading company legislative package. In addition, sufficient funding to publicize and administer the export trading company legislation is needed to insure that export trading companies will be utilized by smaller banks and businesses.

Mr. Chairman, I am sure that the other members of the subcommittee share our mutual interest in hearing from people who helped develop that list. I would like now to turn the testimony over to them. Each brings a different perspective to today's deliberations. Each has followed the export trading company legislation with considerable interest and each supports the bill before us today, H.R. 6016.

These witnesses represent small business, manufacturing, regional banks, port authorities, and export management firms. I think these witnesses are well qualified to aid us in our deliberations.

In closing, Mr. Chairman, I would like to reiterate my strong support for export trading companies. I commend you for doing all that you have done to expedite consideration of this proposal and urge my colleagues to join us in pushing for prompt action. This hearing today marks an important step, I think, in that direction.

Mr. Chairman, today we have with us a very interesting group of gentlemen. We have Dave Davis, the executive director of the Massport in Boston, Ogden White, senior vice president of the First National Bank of Boston, Jim Buzzell, president, Symbicon Associates Export Trading Co., John Deegan, chairman, Smaller Business Association of New England and International Trade Committee, Aldon Anderson, president of the Rhode Island Hospital Trust Bank in the chairman's district, and George Taylor, chairman of the board and chief executive officer of Citytrust Bank in Bridgeport and I might say, by the way, Mr. Chairman, an old and dear friend.

Thank you very much, Mr. Chairman.

Chairman ST GERMAIN. Thank you, Mr. McKinney. I have received a letter from Congressman Barney Frank a member of the full committee regarding H.R. 6016 which I will place in the record at this point.

[The letter from Congressman Barney Frank to Chairman St Germain follows:]

BARNEY FRANK
4TH DISTRICT, MASSACHUSETTS

COMMITTEES
BANKING, FINANCE AND URBAN AFFAIRS
GOVERNMENT OPERATIONS
JUDICIARY
AGING

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House of Representatives
Washington, D.C. 20515

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FRANKLINHAM, AREA TELEPHONE
617-676-4366

April 22, 1982

Honorable Fernand St. Germain
Chairman
Subcommitee on Financial Institutions
Supervision, Regulation, and Urban Affairs
B303 Rayburn House Office Building
Washington D.C. 20515

Dear Fred:

Previous commitments in Massachusetts will prevent me from testifying today before the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance on H.R. 6016, the Bank Export Services Act.

Since the beginning of the 97th Congress I have been a vocal proponent of export trading company legislation. With the able assistance of the New England Congressional Institute, we have been able to ascertain the potential benefit in New England and the nation of export trading companies, primarily for small and medium size businesses. I am convinced that the establishment of export trading company legislation will be a significant boost to the New England economy.

I was pleased to join you as an original cosponsor of H.R. 6016. I have endorsed this particular bill for a number of important reasons. First, H.R. 6016 allows bank holding companies and Edge Act Corporations to participate in export trading companies while insuring the safety and soundess of the American banking system. Second, this legislation will provide for the generation of as many as 15,000 jobs in New England and as much as $500 million in export sales. Third, this bill has the broad bipartisan support of 24 Members of the House Banking Committee and will, once passed, will serve to expedite the eventual enactment of export trading company legislation into law.

There will be respected voices from New England who will testify today and at later dates on the impact that this legislation will have on New England who are likely to make concrete suggestions for minor changes in the bill, as drafted. I look forward to learning of these recommendations and reviewing them carefully so that H.R. 6016 can be amended as need to represent the broadest possible consensus.

Mr. Chairman, your leadership on the export trading company issue has led to the hearings which will take place today and which will, hopefully, lead to prompt action by the full

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Honorable Fernand St. Germain
April 22, 1982
Page Two

Committee. By introducing H.R. 6016 and scheduling these hearings you have demonstrated your commitment to moving quickly to report this bill out of the Committee.

I congratulate you on a balanced bill and look forward to working with you to perfect it in a way that will insure its swift passage.

Thank you for extending to me the invitation to testify.

BARNEY FRANK

BF/djc

Chairman ST GERMAIN. Mr. Wylie.

Mr. WYLIE. Mr. Chairman, I do not want to ask the gentleman from Connecticut any questions. I know where he stands, he knows where I stand and I want to compliment him on his leadership in this legislation. He has been persistent and in his persistence has been very effective and become an articulate spokesman for the legislation, and I would just like to personally compliment you, Mr. McKinney.

Mr. MCKINNEY. Thank you very much.

Chairman ST GERMAIN. Are there any questions from any of the Members of our distinguished colleague? Mr. Annunzio?

Mr. ANNUNZIO. I want to commend my colleague for his testimony and his appearance this morning and inform him that I, too, support the legislation.

Mr. MCKINNEY. I thank my friend from New Jersey. From what we have learned——

Mr. ANNUNZIO. Illinois.

Mr. MCKINNEY. Excuse me. From what we have learned in New England, any manufacturing State will benefit from this program, particularly the small manufacturers who employ most of the people in this country.

Mr. ANNUNZIO. I want to say to my colleague from Connecticut I realize now that I am as good looking as the gentleman from New Jersey. [Laughter.]

Chairman ST GERMAIN. At this time I would ask the panel to approach the witness table—Mr. Ogden White, Mr. John Deegan, Mr. James Buzzell, Mr. David Davis, Mr. George Taylor, and Mr. Alden Anderson.

Gentlemen, for those of you who have submitted written prepared statements, they will all be placed, without objection, in the record and you may read from your statement or you may wish to proceed ad lib, so to speak, whichever way you prefer.

At this time we will call on our first witness, as listed.

STATEMENT OF OGDEN WHITE, JR., SENIOR VICE PRESIDENT, MULTINATIONAL DEPARTMENT, FIRST NATIONAL BANK OF BOSTON

Mr. WHITE. Mr. Chairman, members of the committee, good morning. The First National Bank of Boston appreciates the opportunity to testify on this important legislation and we commend you in moving it forward so expeditously. If I am not mistaken, this bill has the support of nine other members of the Massachusetts delegation, those nine composed of seven Democrats and two Republicans.

Inasmuch as trading is a process of seeking out unrelated buyers and suppliers of specific goods and of services and arranging for the transfer of such goods and services between the two parties, the First National Bank of Boston, New England's largest bank with offices in 33 countries worldwide, believes that banks are in a well-qualified position to participate in this trading function. Accordingly, Bank of Boston supports the Bank Export Services Act, H.R. 6016, and commends this committee and its chairman for introduc-

ing this legislation which should supplement and stimulate exporting activities of both small and large firms.

The Bank of Boston endorses this legislation for its potential to allow us to enter into either a narrowly defined mission of performing trade-related services to satisfy the specific needs of our customers, or as an entity with a broader mission of seeking profits as a business. Inasmuch as trading typically requires little fixed investment, is based largely on the entrepreneurship and the network of contacts of the trader, the Bank of Boston's involvement can only be looked upon as a positive means of bringing third party buyers in contact with our customers with a minimum of financial risk.

Since the safety and soundness of our banking system is paramount, we commend the legislation's provisions for 100-percent ownership by bank holding companies and Edges of an export trading company. This provision will allow us the means to exercise control and not be led into ventures which would jeopardize our banking activities.

Indeed, properly structured, capitalized and managed, an export trading company will offer its parent the potential for valuable additional banking business which heretofore may have been lost to foreign banking competition whose charters frequently do not limit the amount of capital they might invest in trading company activities or loans they might make to these affiliations.

We would suggest, therefore, that the ramifications of section 23(a) be studied carefully so that it does not unwittingly limit the effectiveness of this excellent piece of legislation.

Trading by definition is a two-way street and while export is surely the most important component, proper international sourcing of products contributes not only to our battle with inflation but in our efforts to establish viable economies and hence social conditions in less-developed countries. To restrict banks exclusively to the outbound traffic would place the export trading companies at a competitive disadvantage with little or no mitigation of risk or economic benefit to the country.

We would be remiss not to mention that trading companies from time to time do have to "add on value" in order to accommodate products to specific markets. This quasi-manufacturing component of a trading company's activities, if excluded, would severely restrict smaller companies in their export program, owing to an inability to make these changes on an economy of scale, hence jeopardizing the profitability of their export sales.

The tendency of trading companies to seek profitable trading for their own sake need not be incompatible with commercial banking objectives, as long as we realize where one activity ends and another begins. The Bank of Boston would view its trading company credit request as it would any other. Our experience and diligence in financing trading companies which to date has been entirely satisfactory would be applied equally to our own would-be trading company as to others, and loans to it would be monitored in the same way that all our other lending activities are controlled.

The involvement of bank holding companies and/or Edges in export trading companies should bring additional capital into an industry which in the United States is highly fractionated and

hence of questionable value in affording this country the opportunity to make a quantum jump forward in exports.

Additionally, through either our branches or correspondent networks banks should be able to bring heretofore untapped resources to bear in making our export endeavors more effective. We would respectfully submit, however, that as we are a profit-driven institution with strong fiduciary responsibilities that the proposed legislation not impose restrictions which would inhibit the ability to operate on a profitable basis and hence receive meaningful commitment from management.

In summary, Mr. Chairman, this committee either has or will receive testimony from the New England Congressional Institute, the ABA, BAFT, and the NFTC, all of which, I believe, endorse this legislation along with ourselves. You will hear, no doubt, more detailed support for your bill, so I will let my testimony stand as presented. Thank you.

[The following letter to Mr. White, dated May 4, 1982, from Chairman St Germain along with Mr. White's response follow:]

FERNAND J. ST GERMAIN, R.I., CHAIRMAN
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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
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BILL LOWERY, CALIF.
GEORGE C. WORTLEY, N.Y.

WASHINGTON, D.C. 20515
May 4, 1984

Mr. Ogden White, Sr. Vice President
First National Bank of Boston
100 Federal Street
Boston, Massachusetts 021100

Dear Mr. White:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain
Chairman

Enclosure

97-362 O—82——7

THE FIRST NATIONAL BANK OF BOSTON
BOSTON, MASSACHUSETTS 02110

JUN 15 1982

June 8, 1982

Mr. Fernand J. St Germain
Chairman
U.S. House of Representatives
Subcommittee on Financial Institutions
Supervision, Regulation & Insurance
of the
Committee on Banking, Finance & Urban Affairs
Ninety-Seventh Congress
Washington, DC 20515

Dear Mr. St Germain:

Please excuse the delay in my responding to your letter of May 4, requesting additional comments on issues surrounding H.R. 6016. I shall take them in order as presented together with my suggested reply.

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

In order to be consistent with those banks which do have holding companies, I would recommend that any non-bank holding company be permitted to engage in this activity providing they were to form an Edge Act and have it housed therein, with a proviso that an investment in the ETC could equal 100% of the paid up capital of the Edge Act.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

Many banks have spent a great deal of money in promoting their own name and the good will invested therein would be an important marketing tool for an ETC. To the extent that a bank does control and indeed manage a trading company, a name different from the bank alone will not insure that the investing public and ETC users will not be mislead. Accordingly, I would recommend that the banks, at its discretion, be able to label their ETC as appropriate.

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

While I have already made reference in the enclosed testimony to my objections of this language, allow me to expand further.

The statutory definition should be modified to allow import activity by an ETC to allow for and encourage open trading and "free trade." In this way, we can encourage the creation of trading organizations that begin to parallel trading companies of Europe and the Far East (e.g. Singapore and Hong Kong). A reference to a Japanese trading organization has been avoided here because of the extraordinary structure of Japanese trading companies and their relationships with financial and governmental institutions. However, it should be noted that Japanese trading organizations express a firm commitment to exporting while encouraging foreign manufacturers to aggressively pursue the Japanese market with the right competitive product.

Two-way trade encourages a wider opportunity base and increased the overall profitability of the trading company. Furthermore, the opportunity to import gives the importing country a stimulus to be more competitive in world markets and an opportunity to study and emulate foreign business practices, marketing strategies, product innovations and new technology. Two-way trading allows the trading company to be more flexible in financing transactions abroad since the path is open to opportunities in barter and counter trade.

Two-way trade aspects of a U.S. trading company will be viewed favorably by foreign companies as well as foreign governments as competitive opportunities to encourage an equitable balance of payments.

Of considerable importance in considering this issue is the fact that many U.S. manufacturers use imported raw materials, components and sub-assemblies in the production of a U.S. product. A two-way trading company could facilitate those transactions, provide a more competitive selection for the U.S. manufacturer and control, within the U.S., a larger share of the trade income.

Finally, the legislation should allow the opportunity for the development of true trading companies with control being effected through an evolutionary and participatory regulations development process. (reference the development of Good Manufacturing Practices (GMPs) for the Medical Devices and Diagnostic Products industries under the U.S. FDA.)

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

As in number 3, I testify against this provision and amplify my objections herewith.

The present definition of manufacturing is a difficult limitation on the emerging trading company not only from the standpoint of product modification but in terms of the essential development of certain types of trading companies. Product modification can be a wide area when one

considers all aspects of the manufacturing process for certain industries and foreign sources for raw materials, components and sub-assemblies and/or those industries which are highly regulated in the U.S. and elsewhere such as food, drug, cosmetic, medical devices, etc., the manufacturing process is quite complex and extends through packaging and labeling either in actual fact or as a regulatory phenomenon.

Thus, modifications required to satisfy a foreign market's needs can be a simple or complex problem but a necessary step to getting the product(s) off-shore. While these modifications can and should become a primary responsibility of the manufacturer, there are times when the primary manufacturer cannot for reasons of cost, lack of technical ability, or inclination, provide such a "service."

If a trading company has an opportunity to sell a U.S. product abroad requiring a modification before shipping, the modification which can be viewed as domestic value added, enhances or allows the opportunity for the sale.

Furthermore, such a severe statutory limitation may prohibit the formation of certain trading companies that may take the form of a consortium of compatible, non-competitive manufacturers. For example, a small group of textile machinery parts producers, each incapable of mounting a serious export effort on an individual basis, may bank together on a pooling of efforts basis to create a trading company of which each manufacturer is part owner by virtue of investment and part manager by virtue of position on the board. The current legislation would prohibit such an imaginative (and necessary) organization. Net-Net: open up the statute and control via regulation to the extent necessary.

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

The 5% BHC capital/surplus requirement may serve a useful purpose in so far as it controls the size of the trading company "created" solely with bank funds. In other words, the size of the ETC, its management needs and risk may be proportionate to the size of the bank involved. If an integrated trading company began to emerge in an area serviced primarily by smaller banks, it is conceivable that more than one bank could be involved in the funding and management input to the firm.

For large banks in particular, I think more study has to be made as to the financial dynamics of a large trading company which may require an equivalent of 10% of the bank's capital base.

6. Should ETCs explicitly be allowed to take title to goods, and if so should this more appropriately be handled by regulation with appropriate safeguards?

To increase overall effectiveness in "trading" and allow the flexibility to package multiple product sales, trading companies created under this Act should be allowed to take title to goods. This would allow the new trading companies the same rights/opportunities as their competitors, already in existence in the U.S., as well as their competitors abroad.

A combination of appropriate regulatory safeguards and good business management should provide an environment that maximizes opportunities for free trade and profit.

In the absence of specific legislation such as is pending, taking title is common and is a function of convenience, increased margins for the trading company and speculative buying.

As to convenience, in the case of a trading company working on a multi-product purchase or a project, the trading company takes title and may store products for a relatively short period of time awaiting total assembly of the package and appropriate shipping conveyance. Where warranties/guaranties come into play, the primary manufacturer can provide original or modified coverage on a "pass-through" basis.

In the case of added profitability, the trader may opt for a timely purchase at favorable prices while putting a package deal together or in advance of a future, off-cycle anticipated shipment to an established buying source.

In the case of speculative buying, while this mode carries the greatest risk, it may also hold the greatest profit potential. Again, a combination of appropriate regulations and solid management can control speculation to a positive end.

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

If a trading company is 100% owned by a bank, the industry as a whole is not going to be protected by anyone in the banking system but the parent being able to lend to a subsidiary of a bank holding company. Indeed the risks may be greater inasmuch as the lender would not have as much intimate

knowledge of the operations of the trading company. Most banks would bend over backwards to keep lending activities to the trading companies at arms length and the safety and soundness of the banking system should be assured by the normal controls which are presently in place both internal and external, governing the bank lending activities. Furthermore, inasmuch as trading companies are normally a leverage business it would not be inappropriate for other bank lenders to see the parent also for some money at risk in a lending capacity. To the extent that the trading company were able to arrange financing without recourse to itself, but yet at the same time acting as a conduit by not allowing a bank to accomodate a trading company in these cases would prove cumbersome.

Sincerely,

Ogden White, Jr.
Senibr Vice President

Enclosure

Chairman ST GERMAIN. Thank you, Mr. White, and thank you for your support. Now we will hear from Mr. John Deegan.

STATEMENT OF JOHN F. DEEGAN, CHAIRMAN, SMALLER BUSINESS ASSOCIATION OF NEW ENGLAND, INTERNATIONAL TRADE COMMITTEE, AND PRESIDENT, DEXIM INC.

Mr. DEEGAN. Good morning, Mr. Chairman and gentlemen of the subcommittee.

I would first like to mention that we worked very closely with the institute's task force and I found it an invaluable exposure to the attitudes of other organizations and individuals with whom I probably would not have come in contact had it not been for the institute's activities. So I wanted to say that in the beginning, that it was extremely useful for us to have the exposure to this group.

I am thankful for the opportunity to appear before the committee as a representative of the 1,700 small business firms which are members of the Smaller Business Association of New England. I particularly want to congratulate the chairman on moving this important bill forward when it seemed to be stalled for quite some time.

The banking aspects of the bill seem to offer the protection that did concern many members of the committee, but my purpose here is not to talk about the banking aspects, since we have experts on that facet of it. I am sure the committee is quite involved in that.

I am here really to discuss the small business aspect of the bill and hoping that in its form and revised activity some of the features of the earlier bill and Senate bills can be incorporated here. I am talking specifically about the Ex-Im Bank support for trading companies which is vital for us to compete with our Japanese, English, and German trading partners and they have adequate governmental support.

Also, it is extremely important for the antitrust exemption action to be taken by the Justice Department so that we can freely compete in the world marketplace.

Chairman ST GERMAIN. Mr. Deegan, if I might comment on the first item, as to the Ex-Im Bank support, I am sure you are aware of the problem we faced there, and that is the deficit. I think you probably heard about that.

Mr. DEEGAN. Yes, sir. [Laughter.]

Chairman ST GERMAIN. On point No. 2, the reason the legislation before us is structured as such is so it can proceed, and then once we get it disposed of in this subcommittee and the full committee, then we allow Judiciary then to come in as cleanup hitters to take care of the antitrust provisions. That is our intent.

Mr. DEEGAN. Thank you.

Chairman ST GERMAIN. In other words, it is an attempt to move this.

Mr. DEEGAN. We are deeply grateful for it. As a little background to our participation with the Institute's task force and our own testimony today, the Smaller Business Association of New England has 1,700 manufacturing companies and service companies from all six New England States and it represents a fairly typical cross-section of smaller business in the United States.

After working to generate exports and get involved—and we conducted seminars for our smaller manufacturers—we wanted to really get a better fix on this, so we decided to conduct a survey in 1980. We conducted this survey to all of our membership and we did it in two forms.

We questioned our members whether you are presently exporting, and if so, give us this information, and if you are not exporting, please tell us why not. The results showed that we were close to New England, as we expected. Eight percent of our manufacturers were exporting and that these small people were exporting on average 18 percent of their total sales, which was much higher, certainly, than the national average in any other statistics that we have seen. So it really was a heartening figure to note the potential. If our members could export 18 percent of their sales, then we felt this could be applicable to other small businesses.

The nonexporting companies, much to our surprise, 58 percent of them said yes, we had considered this, although they had not proceeded, and the other 42 percent had never considered it at all. However, the fact that half of the members were interested, over half, is very encouraging as far as future activity in this area.

The main reasons for not exporting were, in the words of the respondents, lack of marketing capacity or resources, and it takes too much time or it takes too much money. These two answers made up 61 percent of—61 percent of the people use these reasons for not exporting. Therefore, this clearly indicates that the services of an export trading company and export management companies have a major role to play when these people are interested in exporting but think they do not have the knowledge or wherewithal.

We would be happy to provide a complete copy of this survey for any of the committee members or staff who would so request it.

Two clarifications of the bill concern us a little bit, and one was touched on by the gentleman from First Boston Bank. That is, we would like some definition of manufacturing. Modifying products should certainly be required. Most of our electrical appliances are 110-60 volt in this country. To export them to Europe they must be 220-50 cycle. So we would hope that there would be some means of allowing this type of modification. Certainly the object is not to do any manufacturing. That is best left to experts.

The other factor is that many countries insist on language, their own language on the package or inside the package. Canada is a good example. That has hurt a lot of smaller manufacturers. The package must, as the Canadians phrase it, be in French and one other language is permitted. Well, for an American manufacturer, he has to cope with that. In many cases the smaller people have dropped out.

But larger entities and trading companies through this bill could modify these packages that bear the Canadian regulations, and as one of our largest trading partners, we would certainly want to do that. The French have the same, similar restrictions and we would want to compete with them.

The aspect of being organized and operated exclusively for the purpose of exporting is a little hampering to a true trading company. Certainly everybody is excited about the export potential here,

but there are times in trading around the world when you have to cooperate with a trading partner and buy a few of his products.

I can give an example of a large manufacturer of film, photographic exporters in big quantities to Eastern Europe. Talking to the President of their international division, he cited the fact that they worked long and hard without too much success until they agreed to take, I believe it was, from Yugoslavia some folding wooden chairs, but this happened to be a particular favorite project of the administration, so by his taking these things in he immediately opened up the market for his photographic supplies.

We would hope that the final language would include maybe, as was mentioned earlier, a percentage just to protect that things do not get out of line when we sponsor importing companies. Some adjustment to that would be fine. We know small business contributes 48 percent of America's gross business product revenue and this legislation, Mr. Chairman, would certainly go a long way to help increase exports in this group.

Let me close by thanking the committee for the opportunity to testify before you. I am sure that the entire small business community joins me in expressing our appreciation.

[The prepared statement of Mr. Deegan; and a letter from Chairman St Germain dated May 4, 1982, requesting comments and answers to questions on H.R. 6016 with Mr. Deegan's attached response follow:]

STATEMENT OF

JOHN F. DEEGAN

CHAIRMAN OF THE

SMALLER BUSINESS ASSOCIATION OF NEW ENGLAND

INTERNATIONAL TRADE COMMITTEE

AND

PRESIDENT OF

DEXIM INC.

CONCORD, MASSACHUSETTS

BEFORE THE

FINANCIAL INSTITUTIONS SUPERVISION,

REGULATION AND INSURANCE SUBCOMMITTEE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

THURSDAY, APRIL 22, 1982

Mr. Chairman and Members of the Committee:

The opportunity to appear before this committee as a representative of the 1700 Small Business members of SBANE is very much appreciated.

The chairman is to be congratulated in introducing H.R. 6016, The "Bank Export Services Act". The banking aspects of this bill seem to offer the protection and stability the committee deems mandatory by allowing Bank Holding Companies and Edge Act Corporations to invest in Export Trading Companies.

My purpose here today is not to discuss the banking aspects of the bill, but the other aspects of the bill as they affect small business manufacturers and service companies.

We would hope that the final bill will incorporate non-banking features of the Senate bill and earlier House bills, namely that full support would be given to Export Trading Companies by the Ex-Im Bank and other governmental agencies.

The exemption from Anti-Trust action by U.S. Justice Department is also vital to the success of the Trading Companies.

BACKGROUND

The Smaller Business Association of New England (SBANE) has about 1700 member companies from all six New England states and from virtually all industrial sectors. This group of companies represents a fairly typical cross-section of the smaller business segment of the U.S. economy.

During the past four years, SBANE has become a leading advocate of smaller business participation in international trade, expecially exporting. The Association's International Trade Committee (SINTRAC) has numerous programs underway to support this advocacy. In addition, members of SINTRAC are often called upon to give statements to the press or testify before congressional committees or federal/state commissions on this subject.

In late 1980, it was decided that SBANE should conduct an in-depth survey of its membership to obtain specific data regarding the member companies' interest and role in international trade. Two distinct forms were developed for the survey: one for companies already active in international trade; and one for those not currently exporting. The aim of the Survey was to provide specific data which would provide guidance as to future SINTRAC programs, and to supply a specific data base upon which to base testimony, etc.

RESULTS

Exporting Companies

The results of the survey showed that 8% of our manufacturing members were exporting and that these small businesses were generating over $80,000,000 in export sales.

This represents an average of about 18% of their total sales. A truly heartening figure and one indicative of vast potential for American Small Business to export when properly encouraged, supported, and organized.

Non-Exporting Companies

The non-exporters fell into two categories.

a. 58% had considered exporting at some time but did not proceed.

b. 42% had not considered exporting at all.

It is extremely interesting to note that over half of our Small Business members had considered exporting, a much higher percentage than anticipated.

Reasons for Non Exporting

In process; evaluating now	10.5%
Too busy with domestic market	11.6%
Lack marketing capacity or resources	23.7%
Takes too much time and/or money	37.3%
Costs of shipping/duties, etc.	6.8%
There is no market overseas for my product	7.8%
Other	11.8%

CONCLUSION

The fact that 61% of these non-exporters gave as their major impediments: Lack of marketing capacity and resources
and
Takes too much time or money

clearly indicates that the service of Export Trading Companies and Export Management Companies have a major role to play and indeed would probably find no lack of American products to export.

SBANE would be happy to provide a complete copy of the survey to any of the committee members or staff so requesting.

LANGUAGE CLARIFICATION OR DEFENITIONS REQUESTED

Changes to Section 23a states under (B) that an Export Trading Company "may not engage in manufacturing" etc.

We request that the final wording of the bill clarify the difference between manufacturing and modifying products for exports.

Examples

1. Most electrical appliances and apparatus are manufactured in the U.S. using 110 volt 60 cycle motors. Almost all of the rest of the world (particularly European countries) use 220 volt 50 cycle motors.

   It would be a severe handicap to an Export Trading Company if it could not make such a modification in order to stimulate foreign sales.

2. Many countries insist on instructions and packages which are imported to be printed in their own language. Canada insists on French - English and French law specifies the French language.

   Successful exporters presently modify the packages and instructions to meet these requirements.

Export Trading Companies should be permitted these and other modifications necessary to achieve maximum exports.

"Exclusively Export"

The language of the bill presently states that an Export Trading Company is "organized and operated exclusively for the purposes of exporting goods" etc.

Certainly all proponents of this bill, in and out of government, are motivated by the tremendous increases in U.S. exports that are possible.

There are certain circumstances, when the normal course of International Trading requires assistance to the foreign recepient of our products, in the selling of his products.

Example

One of our larger American manufacturers of film and photographic papers, supplies etc. has been very successful in exporting to Eastern Europe.

Export sales are reaching significant levels. One of the reasons for this success is that the American company has agreed to bring small quantities of wooden products in to the U.S. to help a favored small manufacturing section of the foreign client.

The import of these wooden items is negligible when compared to the volume of U.S. export, but the flexibility was instrumental to the U.S. export success.

We would hope that the language of the final bill would include perhaps a percentage ratio of imports to exports (this feature was included in earlier bills) that would allow some flexibility to the Trading Company in order to achieve maximum foreign sales.

Small Business contributes 48 percent of America's Gross Business Product revenue. This legislation will go a long way toward increasing exports by that huge proportion of Small Business who do not participate in this vital process to balance America's international trade accounts.

Let me close by thanking the Committee for the opportunity to testify before you today. I am sure that the entire Small Business community joins me in expressing our appreciation for your support.

97-362 O—82——8

FERNAND J. ST GERMAIN, R.I., CHAIRMAN
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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS

WASHINGTON, D.C. 20515

May 4, 1982

Mr. John Deegan, President
DEXIM, Inc.
1723 Walden Street
Concord, Massachusetts 01742

Dear Mr. Deegan:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

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4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

In addition to any comments on the foregoing summary, which you may care to make, the Subcommitee will appreciate your response to the following questions based upon your testimony:

1. If ETCs import goods so they can export U.S. products, aren't they still operating with the exclusive aim of exporting U.S. goods and services?

2. Please furnish a representative listing of ways importing is essential for facilitating exports. Illustrate examples based upon your own experience and that of other members of SBANE will be particularly helpful.

3. Would you draw a definitional distinction between manufacturing and modification. Specific examples of such distinction will be useful.

4. How inhibiting to the operation of an ETC would the retention of the strict prohibition on manufacturing be? Isn't it probable, if there is a clear need to modify products for export, and ETCs are prohibited from doing so, that firms specializing in product modification will be established.

5. By allowing BHC owned ETCs to engage in product modification, wouldn't conflict of interest concerns arise if the owning bank was faced with demands for credit by its product modification subsidiary and by an independent firm specializing in product modification?

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain

Fernand J. St Germain
Chairman

Enclosure
Transcript
Feb. 22 Speech

DEXIM, inc.

POST OFFICE BOX 235 CONCORD, MASSACHUSETTS 01742 (617) 369-1676
TELEX 92-3435 CABLE ADDRESS "DEXIM"

May 14, 1982

RECEIVED
MAY 18 1982
Banking, Finance & Urban Affairs Committee

The Honorable Fernand J. St. Germain
Representative in Congress
Committee on Banking, Finance
and Urban Affairs
Room 2129, Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman St. Germain:

Thank you for your letter of May 4th in appreciation of my testimony on H.R. 6016.

Your summary of the H.R. 6016 issues is quite succinct and requires no comment from me.

I would like to make the following comments to the subcommittee on those items listed in your letter.

1. ETC's importing components or parts in order to export a complete product are indeed operating with the exclusive aim of exporting U.S. goods. We would like somehow for this possible need to import minor elements of the final exported products recognized.

2. Some examples of essential importing to facilitate exports from my personal experience at Dexim, Inc. are as follows:

   a) We import a special electrical plug (unavailable in the U.S.), which is required by U.K. electrical codes so that we can export an electrical appliance to England.

   b) We import small plastic washers, which meet the German electrical code, to separate the terminals on a motor housing from the connecting wires and are thus able to export the entire appliance to Germany.

3. Modification would be distinct from manufacturing in the examples cited in 2 above.

DEXIM, inc.

The Honorable Fernand J. St. Germain
Representative in Congress

May 14, 1982
Page 2

We would define modification as a minor change or changes to a manufactured product or to its packaging in order to meet foreign requirements mandatory or desirable to maximize exports.

4. The retention of a strict prohibition of ETC's from engaging in modification, which was somehow defined as manufacturing, would definitely reduce export sales potential.

While a need for product modification, should ETC's be prohibited from such performance, could lead to the formation of firms specializing in modifications the cost of such work performed by a firm bearing its overhead and profit could make the end product non-competitive for export.

Example The cost of the plug (in 2a above) from the U.K. is 50 cents. The labor to attach is 20 cents for a total of 70 cents. This generates the export of 20,000 appliances at $25 each or $500,000 per year.

However there is not likely to be a separate company who would enthusiastically change plugs on 20,000 units at 20 cents each or the grand total of $4,000, especially since this is presently done in lots of 5,000 four times per year.

The point being that the ETC is looking for its profit on the entire selling price of the exported product and therefore makes the modification at cost.

5. If the modification process were of such magnitude to spawn companies specializing in such activities then perhaps conflicts of interest could develop between these companies and BHC owned ETC's.

Quite frankly I do not see very much potential for a surge in formation of product modification companies.

I've just returned from a sales trip to Europe, but I'm sure these comments will reach you by May 18th and I do hope they will be of value to the subcommittee in its deliberations.

Sincerely yours,

John Deegan

John F. Deegan
President

JFD:lmw

Chairman ST GERMAIN. I appreciate your testimony.

At this time we will hear from Mr. James Buzzell.

I would like to, sir, express the apologies of Congressman D'Amours because he did indeed wish to be here. However, he is testifying before the House Appropriations Committee at this time and he did want to convey his apologies for his absence, but it is not by choice but rather because of conflicts that we constantly encounter.

STATEMENT OF JAMES BUZZELL, PRESIDENT, SYMBICON ASSOCIATES, NASHUA, N.H.

Mr. BUZZELL. It should become fairly clear to the committee that we had not had much of an opportunity to get together and discuss the various aspects that we are each going to speak on. The two previous gentlemen have touched on to some degree in my main interest area.

Other than commenting on the fact that New Hampshire does contribute close to $1 billion of manufacturing goods which represents something on the order of 14½ percent of the total work force in New Hampshire being dedicated to export-related goods and services, New Hampshire and New England are all vitally concerned with the passage of this legislation.

As the president of an export management company resident in this export-oriented area, I also am very interested in the legislation. It has been quite common for people to refer to the Japanese trading companies, the European trading companies. What I would like to do is I would like to have my comments entered into the record and then offer a few comments on the questions that you might have and then proceed from there.

I think one of the mistakes that this legislation fails to address in the concept of trading companies is the concept of trading companies versus export trading companies. I believe it is essential for a trading company, an export trading company, to survive they really ought to be allowed to have the latitude of both importing and exporting. I believe that the expertise, the contacts, the knowledge that an export trading company brings to a manufacturer, particularly a small manufacturer, is equally applicable for the import as it is for the export.

Many small manufacturers are interested in obtaining parts overseas and it is only logical and in my experience the first person they tend to talk to is the person who in their mind is an international expert, and they draw little distinction between importing and exporting.

Certainly the question of barter comes up in numerous sales opportunities and the New England Congressional Institute spent a great deal of time in addressing this particular problem and did include as one of the recommendations on the Senate bill that the export trading companies be allowed up to 50 percent of their gross sales for import. The reason for this is obvious. It is impossible for a trading company to survive in this competitive environment without the ability of being able to import goods or services.

The other area I would like to touch on is on the question of the interpretation of the word "manufacturing," and this has been

mentioned briefly. I think we have a very serious problem as we try to export U.S. high technology products which require in the United States one kind of a plug on the equipment and in the overseas countries it is a totally different kind of connection.

It goes internal from there to the power supplies, which typically in the United States operate at 120 volts, 60 hertz. Overseas these are 220 volts. I think it would be a mistake not to allow the export trading company the opportunity of modifying the equipment such that it would be applicable for the overseas market.

Another point that comes to mind is that if you are going to allow us to do that kind of modification, the most logical place to go and get the parts in order to make the modification would be in the international scene. There are very few U.S. manufacturers which in fact do make these European plugs and connectors.

It carries over further from there in the computer-related area where most of the U.S. products are designed with the U.S. user in mind. The U.S. user is conversant with English and all of your error messages which appear on the scope appear in English and the requirement to penetrate the European markets is that those messages be in the native tongues. If these messages are to be in the native tongues, it is essential that somebody do that modification.

I do not believe that in a lot of cases you are going to be able to have the manufacturer do it. The user is not interested in doing it. Therefore, the export trading company is a logical person to step in and do the translation and the implementation of those software changes in the computer system.

You will run into other problems. There are European standards which are unknown to U.S. manufacturers. To go to a U.S. manufacturer, particularly a small U.S. manufacturer, and ask him to incorporate a change that he has absolutely no knowledge of or, in fact, any interest in learning about will render this equipment unsaleable in many European countries. Again, it falls on the trading company with the knowledge of the European market as well as the U.S. market to step in and fill the void between these two people and allow the user to generate a piece of equipment which will, in fact, satisfy the overseas requirement.

Again, you are faced with the problem that there are many European power supply manufacturers who are very conversant with this. Wouldn't it be logical to import the power supply from an overseas country that has and satisfies the requirements, incorporate that in the U.S. equipment and deliver it back to the country where the contribution to the total sale in dollar terms is very slight.

I mean, I am not advocating that the export trading companies become manufacturers, but I think some degree of flexibility, some latitude in being able to solve these kinds of problems which will make U.S. equipment more saleable overseas certainly is worthy of consideration by the committee.

Again, thank you very much for the opportunity to be here. I have enjoyed it.

[The prepared statement of Mr. Buzzell and a letter dated May 4, 1982, from Chairman St Germain regarding issues and questions on H.R. 6016 along with Mr. Buzzell's response follow:]

U.S. HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE

OF THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

H.R. 6016 BANK EXPORT SERVICES ACT

APRIL 22, 1982

PREPARED REMARKS OF:

JIM BUZZELL
PRESIDENT
SYMBICON ASSOCIATES INC.
AND
MEMBER:

SMALLER BUSINESS OF NEW ENGLAND (SBANE)
SBANE INTERNATIONAL TRADE COMMITTEE (SINTRAC)
NATIONAL ASSOCIATION EXPORT MANAGEMENT COMPANIES (NEXCO)
NEW ENGLAND CONGRESSIONAL INSTITUTE TASK FORCE ON EXPORT TRADING COMPANIES

Mr. Chairman, Congressman D'Amours, members of the committee, I am honored to have this opportunity to present my views on the provisions of H. R. 6016, the Bank Export Services Act.

New Hampshire businesses exported $965.7 million worth of manufactured goods in 1980, an increase of 112% over 1977. This figure represents an impressive 11.3% of the gross state product as compared to U. S. exports of 8.2% of the gross national product. About 14.5% of New Hampshires' work force is employed in export related jobs, ranking the Granite state 14th nationally in this area. New Hampshire goods and services, and their export potential, provide a tremendous economic boost to our state. New Hampshire has a very rapidly expanding base of high technology companies and is quite concerned with any legislation which impacts this business.

According to a recent survey by the New England Congressional Institute the six New England states generated over $10 billion in export sales in 1980. An estimated 135,000 jobs in New England are a direct result of export sales. New England is a major U. S. center of high technology companies. The ability to compete in world markets is one of the reasons New England companies have had a strong emphasis on export trade. New England interest and concern for legislation which will enable it to be more efficent in meeting the challanges it faces, has been evidenced by the large numbers of organizations, both public and private, who have contributed to the Congressional Institute's study.

As the president of an Export Management Company, resident in an agressive, export oriented state, in a region of substantial export capability, I am very much interested in legislation designed to assist in the expansion of export trade. To have this opportunity to present my comments on this vital legislation is sincerely appreciated. I would also like to express my appreciation to Dr. Staelin and the staff of the New England Congressional Instutute for enabling me to participate in the Export Trading Company Task Force.

Foreign trade must be established as a major national priority. U. S. companies must think more in terms of a global marketing rather than myopically focusing on the domestic market alone. Failure to do so will result in missed opportunities abroad as well as a deeper penetration of our home markets by the more export minded competitors from abroad.

The Congress has an obligation to provide the friendly framework under which U.S. companies can meet this challange. H. R. 6016 is but one of several bills which are needed to assist U. S. Business meet foreign competition.

U. S. trade deficits during the past three years range from $24.7 billion to almost $29 billion, the highest in our history.[1] U. S. exports, as a share of the GNP, are only 7.5%, the lowest of any industrial nation.

Figures from the Department of Commerce show only 8.3% of the nation's 300,000 manufacturers export regularly, and a very small fraction of those, approximately 1,900 companies account for 84% of U. S. exports. In Commerce's view, at least 20,000 small companies that are not currently exporting, could easily sell their products overseas.

There are about 12 million small business operations in the U. S.[2] or more than 97% of all American companies. They provide livelihood for more that 100 million Americans and account for about 40% of our Gross National Product.

Small producers offer unique characteristics for International trade. They produce a variety of products, often of exceptional quality, as well as typically being on the leading edge of technology. The flexibility and motivation of small companies allow them to quickly adapt to market opportunities. It is these agressive, inovative, small companies, in high technology as well as the more established technologies, who will in the long term, turn our balance of trade around.

Export Trading Companies are a vehicle for providing export assistance to these small companies. Legislation should certainly be considered in light of its impact on these companies.

The legislation, as currently written, will afford both small and medium size companies an opportunity to expand their export sales. The ability of banks to participate in International Trade will hopefully bring to bear the capital necessary for many of these manufacturers to export.

However, as Congressman St. Germain said when introducing the legislation on

March 31, 1982[3] "The experience of our European and Japanese neighbors indicates that firms in those countries effectively utilize companies which specialize in importing and exporting goods and services." I would suggest that to be an effective Export Trading Company, it is necessary to do both importing and exporting.

The significance of importing was addressed at great length during the meetings of the New England Congressional Institute's Task Force. The recommendation regarding import restrictions on export trading company activities: was ""Section 103 (a)(2) of the Senate ETC bill defines U. S. goods to be goods which "the cost of the imported raw materials and components thereof shall not exceed 50% of the sales price." While the intent of the legislation is clear, to encourage the export of U. S. goods, if this definition is applied to individual trade contracts of an ETC, it may interfere unnecessarily with the successful operation of U. S. export trading companies. As experienced international traders know, most trade deals are consumated by negotiating both the buying and selling of goods. To limit American ETCs to dealing only with goods "the cost of which has been produced at least 50% in the United States", may inadvertently make U. S; based ETCs noncompetitive with those based in other countries. Therefore, the Task Force recommends that this section of the law be written to make the intent clear: that ETCs must, within a reasonable time frame, deal primarily with products produced at least 50% in the United States. The time frame for enforcing this regulation can be determined by the Department of Commerce, and could be included as part of the regular reporting requirements of certified ETCs."

Some degree of importing must be allowed. The expertise, contacts and understanding of foreign markets, which allows a manufacturer to rely on an ETC for the one stop export assistance which is generally felt will improve the chances of these small companies to engage in international trade, may also be relied on to provide assistance wiht importing. Manufacturers who lack the expertise and/or the time to develop their international sales independently will also lack the necessary expertise to locate alternate foreign sources of supply. The same skills, contacts and understanding of foreign trade which an ETC brings to a manufacturer for developing foreign sales are applicable for locatiing these foreign sources. It would be a natural adjunct. Larger manufacturers consis-

tentaly utilize overseas supplies today in order to remain competitive in world markets. It would appear logical to enable smaller manufacturers the same latitude for the same purposes. The ETC would act as a Trading Company and not merely an Export Trading Company. Another argument to delete the "export only" provision centers on the tendency of many third world countries as well as some major trading partners to rely on reciprocal trade agreements i.e. barter. Faced with a shortage of dollars, these countries are anxious to obtain U. S. products in exchange for local products or commodities. The small to medium size manufacturer would tend to rely on the ETC to convert these items into U.S. dollars.

I fully appreciate the dilemma of this committee. This is hardly the appropriate time to open Pandoras' box and be accused of subsidizing imports as imports into this country are increasing. There is pressure to become much more protective and here I sit recommending that the way to increase exports is to allow imports. I believe a change of the wording in the proposed bill on page 6, sentence 7, from "exclusively" to "primarily" will send the appropriate message to the ETC as well as to those responsible for writing and implementing the regulations.

I would also recommend the committee consider a rather loose interpretation of the defination of "manufacturing" (page 7 sentence 5).

There are very few overseas customers who can utilize a U. S. plug or for that matter 110 volts and 60 Hertz. Whenever possible we attempt to have the manufacturer provide that modification. Where he is unwilling, unable or is just too expensive, we will do it. We attempt to provide equipment which will satisfy the customers requirements. If we are to be successful, we must provide that equipment as economically as possible. In this case the perceived value added is minimal. To be competitive, we must therefore be allowed to modify the equipment in the most cost effective manner. To be prohibited from performing this modification, lest we be considered a manufacturer, appears to defeat the intent of the legislation. Incidentally, I would suspect the that if not the only source of European plugs, then certainly the least expensive would be a foreign manufacturer. Will I be allowed to import them? My arguement to those who would suggest this could easily be accomplished in a "Free Zone" that it is

is not feasible for a small company interested in keeping costs to a minimum. The question of how to rewire a transformer for 220V without violating the "no manufacturing" provision of the bill can be easily answered by defining minor modifications as not being manufacturing. I fear a rigid interpertation of "manufacturing" will unnecessarily restrict the flexibility an ETC will need to operate.

Another area to be concerned with the definition of manufacturing is in tailoring software packages for specific customer applications. These changes range from translation of error messages on a CRT to completely redoing accounts payable or inventory type programs. One of the major EMC's in the New England area, who is heavily involved in exporting high technology products, does extensive software and hardware work for their foreign customers. Six other EMC's in the New England area, with whom I spoke, do minor to occasional repackaging or modifications. Although my area of concentration is in the "high technology area", I have also talked to low technology exporters about this definition. It is not uncommon for them to do some level of modification.

If an ETC were to decide to market one or more products under its name, would a strict interpretation of "manufacturing" preclude them from simply relabeling the product?

I suspect these types of problems are more characteristic of a small exporter. If an exporter were of sufficient size or the order large enough to warrant it, the problem would probably go away. But again the legislation must consider the smaller manufacturer cooperating under small ETCs to expand their international sales.

As you can see, I am not interested in opening the door for an ETC to manufacture. I don't believe that should necessarily be in their charter. It is essential; however, for a trading company to have the flexibility to perform modifications or repackaging, in order to adapt a U. S. product for foreign markets.

Passage of this bill will certainly open the doors for serious consideration of possible export alternatives. As more and more manufacturers recognize the

necessity of thinking in terms of a global marketing stratagy, and begin to expand their markets, the U. S. balance of trade will significantly improve. All any of us ask is that government not burden us with regulations which will make profitable operations unfeasible.

Thank you.

FOOTNOTES

1. Based on "1977 Preliminary Statistics of Income," Internal Revenue Service, and "Monthly New Business Incorporations," Dun & Bradstreet. The figures cited are necessarily estimates, for no source adequately measures the number of U.S. businesses or the number of small businesses. IRS figures include inactive companies, companies that are controlled by large corporations but that file separate tax returns, and all induviduals who file Schedule C tax forms, regardless of whether they are self-employed. Census statistics enumerate companies and business "establishments," but those figures do not take into account the fact that a company may own one or more "establishments," such as retail branches or manufacturing sites. Also, Census figures exclude sole proprietorships and the self-employed.

2. Data from International Trade Administration, U.S. Department of Commerce, 1980.

3. Congressional Record - House H1327 March 31, 1982

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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS

WASHINGTON, D.C. 20515
May 4, 1984

Mr. James Buzzell, President
Symbicon Associates
17 Airport Road
Nashua,, New Hampshire 03063

Dear Mr. Buzzell:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

In addition to any comments on the foregoing summary, which you may care to make, the Subcommittee will appreciate your response to the following questions based upon your testimony:

1. Please elaborate on the definitional distinction between manufacturing and modification furnishing examples from your own experience if possible.

2. Would you draw a definitional distinction between manufacturing and modification and support your definitions with numerous examples?

3. How inhibiting to the operating of an ETC would the retention of the strict prohibition on manufacturing be? Isn't it probable, if there is a clear need to modify products for export, and ETCs are prohibited from doing so, that firms specializing in product modification will be established?

4. Please comment on the statement that an ETC becomes a more efficient exporter if it has the ability to import and engage in third party activities. Examples of such activity with an explanation as to improved ETC efficiency from your own experience, if possible, will be particularly helpful.

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain

Fernand J. St Germain
Chairman

Enclosure
Transcript

SYMBICON ASSOCIATES, INC.
An Export Management Company

89 ROUTE 101A
AMHERST, N.H. 03031 USA

8 June 1982

Mr. Fernand J. St Germain, Chairman
U.S. House of Representatives
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
Of The Committee on Banking, Finance and Urban Affairs
Ninety-Seventh Congress
Washington, D.C. 20515

Mr. Chairman:

Thank you again for the courtesy extended to me during the hearing on H.R. 6016. I appreciate the opportunity to present my views on this legislation.

Regarding item (3) of your letter of May 4, 1982, I don't believe that how an ETC is allowed to do other than export is as important as that some degree of importing is permitted. My concern, unless the people writing, interpreting and enforcing the legislation are given guidelines regarding the interpretation of "exclusively" they will take it quite literally. This is the reason I believe a change in the word would set the tone. If statutory definition will serve the purpose fine. If 50% is politically unpopular, would 75% export be politically acceptable? Whatever the figure arrived at, it should be clear the intention is to allow the formation of a company which over a period of time (one year?) their main function is to export. To do an analysis on each and every order might be cumbersome.

Simularly, item (4) of the summary could be left in the hands of the people responsible for "regulatory description" as long as they understand that some degree of product modification is to be allowed. Again my concern is that a rigid interpretation of "manufacturing" will defeat the intention of the legislation.

Regarding your specific questions:

The one definition from Webster which appears to cover this problem is "to produce according to an organized plan and with division of labor". As an exporter, we have no organized plan to manufacture or even to modify. We attempt to provide a manufactured product in a form acceptable to the customer. For that he pays us.

By way of example;

a. We regularly switch power cords from the U. S. standard three prong to various European plugs.
b. Rewiring of the U. S. supplied transformer to accept the 220-240 European voltages is common.

TEL: (603) 673-8898 TELEX: 953 059 CABLE: SYMBICON

c. In order to obtain the lowest price from the manufacturer,we tend to order in quantity in anticipation of foreign orders. As the overseas orders come in, we find ourselves changing the configuration from what we originally ordered to what the customer ordered. The parity of the equipment, speed of operation, type of interface and other similiar changes are routinely made.
d. At the present time we are also negotiating foreign sales rights for various U. S. software packages. We have already been requested to change from English to German and French, as the language for presentation on the screens.
e. Recently, we received, what was for us a very nice order from Australia for a temperature recording system. This required not only the power and frequency conversion, but also that we purchase locally, install and deliver the temperature probes which will be used in this application.

Thru all of these activities we have not been able to off load this customization on the manufacturer. If the changes are significant or if a design modification is required, we will try to convince the manufacturer that it is required and he should provide the equipment as ordered. If the order is significant, we are able to get his attention, sometimes not. It would make our principle nervous if we were to establish a manufacturing operation. It certainly would make me nervous because it would require talents and skills which our organization does not have. Frankly we are not interested in acquiring these skills because we tend to view ourselves as a sales organization rather than a manufacturer. Perhaps defining a manufacturer as the organization which will warrantee the equipment is an effective start in determining the major difference between manufacturing a product and modifying it.

2. Isn't this the same question as # 1?

3. I would suspect, based upon our experience, that its' impact would be significant if we sold to end users and probably of less significance if we sold to a distributor. If we were selling thru our own sales organizations in various countries it would be serious. Certainly having our own sales organization as a part of a Trading Company is very probable.

You are probably right that firms specializing in product modification would appear; however, the costs of having them do it would certainly impact the cost to the customer. Remember the cost is loaded at each point. Our markup, the distributors' markup, customs' piece of the pie, all contribute to making the product less competitive with local products. If the perceived value added gets out of line in the eyes of the customer, he will go somewhere else. It certainly doesn't help the U. S. if he buys locally. Our experience with foreign buyers is that they are professional, competent business men who know when a cost is out of line. It just isn't possible, in a highly competitive procurement, to pass along the markups. Competition also keeps most companies from reaching the "take it or leave it" philosophy if long term growth and market penetration is required. To legislate that solution appears to me to be the result of alack of appreciation of how competitive the overseas market is. I have found that just a few dollars per unit on a several thousand unit order can and often does make the difference between getting and loosing a job.

4. I have had a very difficult time locating a U. S. manufacturer of European plugs, cables and DRN approved power supplies. The most logical place to find

them are in Europe. The European manufacturers' have long ago solved the problem of meeting various European standards. These standards are similar to our UL approvals but much more rigidly enforced. In Switzerland, for example, any unit which plugs to the power network must be approved. Unless I can locate a U. S. manufacturer who has the approval, I would be much better off to buy that part of the system in Switzerland. Most European manufacturers have already qualified their equipment thruout Europe. I know of no one in the U.S. with the exception of IBM who has. Frankly, most small manufacturers I have talked to have just started to address the voltage and frequency problem let alone designed to European standards.

We have not been able to locate software people who understand the local customers in Europe. To develope an accounting package to satisfy a Swiss retailer's requirement, I must utilize a Swiss programer (buy the service). Is this an import? Probably, but I can't sell without it and I certainly wouldn't ever try to sell that package in the U. S.

I have attemped to convince a U K (and a German) distributor that he should handle a particular U. S. product. The end result was I was asked to assist them sell their product in the U.S. It turned out in these two cases that the arrangement was never finalized; however, I still have his contact on my desk for signature if I wish to accept the offer. If they were slightly stronger we would be importing their equipment today. U.S. sales from their product lines would be less that 10% of our total sales.

I was able to appoint a distributor in Greece for U. S. computer equipment only because I was willing to also act as his U. S. buying office. Now I find I am also buying Japanese computers from Australia for shipment to Greece and everyong is happy. If I were unable to do this or if it were a nightmare of forms and regulations, we wouldn't have a deal. Incidently, the net result is I will probably sell $100,000 worth of U. S. equipment and $10,000 worth of Japanese equipment. Certainly not a bad trade.

It might be suggested that again other companies (importers) will spring up to satisfy this need if ETCs are prohibited from exporting. Again the paperwork, et al will add to the expense and impact the ability to compete. It seems as tho the people who are not intimately familiar with the day to day operational problems tend to gloss over the disadvantage of a "slight" increase in cost. Add the cost of money today at 1½% per month to a buyer who insists on 120-180 days payment and the whole concept becomes suspect. We don't need government forcing "a little here and a little there" incremental cost on us at a time when we are fighting for survival. I have talked to numerous exporters and they are all in the same boat, business is tight. Our expenses must be minimized if we are to exist.

I fail to understand why people don't realize most businesses are not cash cows. Our ability to survive depends upon our bottom line. Any factor which impacts our P & L statment must be evaluated and examined. An ETC will be no different. Just the incremental costs associated with the above four questions, would tilt the scale in favor of our dropping the idea of becoming an ETC. It just isn't worth it.

I apoligize for not getting these comments back to you by your deadline of 18 May. I regret that I did not have the time to devote to it. Believe me Congressman, I consider this legislation to be in the best interest of the U. S.

Don't let Congress screw it up. Make it clean and simple and easy to administer or we are all going to waste our time trying to figure out a way around it or just do without it.

Thanks again for the opportunity to submit my views.

Personal Regards,

SYMBICON ASSOCIATES, INC.

James H. Buzzell, Jr.
President

JHB/bcb

Chairman ST GERMAIN. Thank you, Mr. Buzzell. Now we will hear from Mr. David Davis of the Massachusetts Port Authority.

STATEMENT OF DAVID W. DAVIS, EXECUTIVE DIRECTOR, MASSACHUSETTS PORT AUTHORITY

Mr. DAVIS. Thank you very much, Mr. Chairman and members of the committee. I appreciate the opportunity to appear before this committee and share Massport's experiences with small business exporting and our thoughts about the Bank Export Services Act, H.R. 6016, as it relates to the needs and potential of small businesses.

Massport was pleased to become an active member of the New England Congressional Institute's Export Trading Company Task Force because we play a multifaceted, key role in New England's international trade activities. Massport, as you probably know, is an independent public instrumentality chartered by the Massachusetts Legislature to manage, operate, and further develop airport, port, and bridge properties in the Greater Boston area.

These include several deep draft marine terminals, Logan International Airport, Hanscom Field, and the Tobin Memorial Bridge. Massport is totally involved in transportation, with a significant portion of our activity dependent on the movements of cargo and people to and from international destinations.

Because Massport's revenues are generated primarily by the fees levied on its commercial users, our own growth is intimately tied to the success of our regional firms in developing profitable international relationships. Consequently, 4 years ago, in conjunction with the Smaller Business Association of New England, Massport began a pioneering export marketing and technical assistance program tailored to the needs of small New England companies interested in foreign trade.

The small business export program has been highly successful because it offers individualized service to companies unfamiliar with the subtleties of marketing and selling overseas and confused by the mechanics of exporting, such as financing, documenting, and transporting goods for sale abroad.

Working through our office in Belgium, the small business export program has provided smaller companies with the resources, expertise, and contacts needed to penetrate foreign markets, and it has been quite successful. To date, 52 New England firms have scored $5 million in sales through the program.

Massport is proud of the success of what is now a nationally recognized small business export program. I believe, therefore, that we are qualified to speak to the potential of small business exports nationally and the exciting role trading companies could play in realizing that vast potential.

Small firms face a number of barriers to export—both real and imagined—which export trading companies could help them to overcome. Because smaller firms usually lack resources, time, and expertise to develop exports, the one-stop service of a well-managed and fully capitalized trading company would provide smaller firms with an efficient, effective and economical opportunity to sell abroad.

Of the many obstacles confronting the small new-to-export company, clearly the most significant is access to financing for export sales and development. Time and again we have seen smaller firms forgo sizeable export sales for lack of short-term financing needed to carry their inventory prior to execution of the sale. We have also seen many small firms postpone entrance into the high potential export markets that are ripe for their product simply because the short-term burden of the support costs for developing an export program was too great.

While the availability and affordability of export financing is clearly crucial to the development of small business exports, the range of other services provided by a trading company make it a vehicle ideally suited to the needs of smaller exporting firms. Specifically, trading companies would provide valuable assistance in the following areas.

First, market research. The ability of a professional trading company to locate and evaluate markets and buyers for products is beyond that of even a seasoned individual exporter.

Second, export mechanics. A trading company would handle all documentation for export sales, relieving the client firm of the burden of wading through the labyrinth of U.S. and foreign trade regulations.

Third, transportation and distribution. A trading company would handle the often-cumbersome details associated with transporting and distributing products to market.

Fourth, strategic planning. A trading company would bring considerable international expertise to bear on the positioning of products in foreign markets. Questions such as pricing strategies, promotional techniques, and product modifications require an informed judgment about the peculiarities and business practices of specific foreign markets.

Fifth, shared financial risk. A trading company's financial commitment to a particular product presupposes its export potential with the trading company assuming a business risk which many smaller firms might be unwilling or unable to bear on their own.

Now if I might just for a moment depart from my text, I would like to give you a few examples because I always find it easier to think in those kinds of terms, firms that I am familiar with through the smaller business export program that might have gone better with a trading company being involved.

I have a small manufacturer of heat economizers in Stoughton, Mass. Please do not ask me what a heat economizer is, but I know it is very expensive. They lost several firm sales in Europe in the $100,000 range because it could neither afford the current rates for conventional financing nor was it large enough for Ex-Im Bank financing. The trading company clearly could have financed the solid deals—and they were solid deals—that were in question.

Second, I have a manufacturer of furniture kits in Cohasset, Mass. There is a market for these kinds of kits in Europe, but the president of the company needs maximum exposure to the two European furniture shows this year. A trading company could have represented his interests much more effectively and more cheaply than he could on his own.

Another example, I have a manufacturer of what one would call, I guess, hypoallergenic cosmetic products made entirely out of natural raw materials that has a very good potential in Europe but is not in a position now to support by himself the heavy advertising costs that are involved in breaking into the competitive markets in Europe. Trading companies' consolidated advertising budget would help enormously and its expertise would afford costly and potentially harmful advertising mistakes.

I do not think that we should look at trading companies as a panacea to solve the country's balance-of-trade problems, nor are they the only hope for smaller firms. But, the emergence of trading companies would be a timely and a major first step in developing our country's enormous export potential. The reality is that American firms, both small and large, are competing now in a world marketplace.

Prompt passage of H.R. 6016 would go a long way toward boosting the competitiveness of U.S. products abroad and strengthening our economy at home. The New England Congressional Institute's findings are indeed compelling. The presence of export trading companies in New England alone would generate 500 million new export sales dollars and create over 10,000 jobs.

Many legitimate points of view have been raised in the discussion of bank involvement in export financing that has insured since the first export trading company legislation was filed in 1977. I think that the debate has gone on long enough. Now is the time, as Virgil once said, "to look with favor on a bold beginning."

I urge this subcommittee to look with favor on H.R. 6016, a bill whose passage would mark the bold beginning of a new era in U.S. export trade. Thank you very much.

[The prepared statement of Mr. Davis and a letter from Chairman St Germain dated May 4 regarding issues on H.R. 6016 along with Mr. Davis' response follow:]

STATEMENT OF

DAVID W. DAVIS

EXECUTIVE DIRECTOR

MASSACHUSETTS PORT AUTHORITY

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

OF THE

U.S. HOUSE COMMITTEE AND BANKING, FINANCE AND URBAN AFFAIRS

APRIL 22, 1982

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE AND SHARE MASSPORT'S EXPERIENCES WITH SMALL BUSINESS EXPORTING AND OUR THOUGHTS ON THE BANK EXPORT SERVICES ACT (H.R. 6016) AS IT RELATES TO THE NEEDS AND POTENTIAL OF SMALL BUSINESS EXPORTERS.

MASSPORT WAS PLEASED TO BECOME AN ACTIVE MEMBER OF THE NEW ENGLAND CONGRESSIONAL INSTITUTE'S EXPORT TRADING COMPANY TASK FORCE BECAUSE WE PLAY A MULTIFACETED AND KEY ROLE IN NEW ENGLAND'S INTERNATIONAL TRADE ACTIVITIES. MASSPORT IS AN INDEPENDENT "PUBLIC INSTRUMENTALITY" CHARTERED BY THE MASSACHUSETTS LEGISLATURE TO MANAGE, OPERATE AND FURTHER DEVELOP AIRPORT, PORT AND BRIDGE PROPERTIES IN THE GREATER BOSTON AREA.

THESE INCLUDE THREE DEEP-DRAFT MARINE TERMINALS, LOGAN INTERNATIONAL AIRPORT, HANSCOM FIELD AND THE TOBIN MEMORIAL BRIDGE. MASSPORT IS TOTALLY INVOLVED IN TRANSPORTATION, WITH A SIGNIFICANT PORTION OF OUR ACTIVITY DEPENDENT ON THE MOVEMENTS OF CARGO AND PEOPLE TO AND FROM INTERNATIONAL DESTINATIONS.

BECAUSE MASSPORT'S REVENUES ARE GENERATED PRIMARILY BY THE FEES LEVIED ON ITS COMMERCIAL USERS, OUR OWN GROWTH IS INTIMATELY TIED TO THE SUCCESS OUR REGIONAL FIRMS HAVE IN DEVELOPING PROFITABLE INTERNATIONAL BUSINESS RELATIONSHIPS.

CONSEQUENTLY, FOUR YEARS AGO, IN CONJUNCTION WITH THE SMALLER BUSINESS ASSOCIATION OF NEW ENGLAND, MASSPORT BEGAN A PIONEERING EXPORT MARKETING AND TECHNICAL

ASSISTANCE PROGRAM TAILORED TO THE NEEDS OF SMALL NEW ENGLAND COMPANIES INTERESTED IN FOREIGN TRADE. THE SMALL BUSINESS EXPORT PROGRAM HAS BEEN HIGHLY SUCCESSFUL BECAUSE IT OFFERS INDIVIDUALIZED SERVICE TO COMPANIES UNFAMILIAR WITH THE SUBTLETIES OF MARKETING AND SELLING OVERSEAS AND CONFUSED BY THE MECHANICS OF EXPORTING.... SUCH AS FINANCING, DOCUMENTING AND TRANSPORTING GOODS FOR SALE ABROAD.

WORKING THROUGH MASSPORT'S OFFICE IN BELGIUM, THE SMALL BUSINESS EXPORT PROGRAM HAS PROVIDED SMALLER COMPANIES WITH THE RESOURCES, EXPERTISE AND CONTACTS NEEDED TO PENETRATE FOREIGN MARKETS.

AND, IT HAS BEEN REMARKABLY SUCCESSFUL: TO DATE, 52 NEW ENGLAND FIRMS HAVE SCORED $5 MILLION IN SALES THROUGH THE PROGRAM.

MASSPORT IS INDEED PROUD OF THE SUCCESS OF THE NOW NATIONALLY RECOGNIZED SMALL BUSINESS EXPORT PROGRAM. I BELIEVE, THEREFORE, THAT WE ARE ESPECIALLY QUALIFIED TO SPEAK TO THE POTENTIAL OF SMALL BUSINESS EXPORTS NATIONALLY AND THE EXCITING ROLE TRADING COMPANIES COULD PLAY IN REALIZING THAT VAST POTENTIAL.

SMALL FIRMS FACE A NUMBER OF BARRIERS TO EXPORT--BOTH REAL AND IMAGINED--WHICH EXPORT TRADING COMPANIES COULD HELP THEM TO OVERCOME.

BECAUSE SMALLER FIRMS USUALLY LACK THE RESOURCES, TIME AND EXPERTISE TO DEVELOP EXPORTS, THE "ONE-STOP" SERVICE OF A WELL MANAGED AND FULLY CAPITALIZED TRADING COMPANY WOULD PROVIDE SMALLER FIRMS WITH AN EFFICIENT, EFFECTIVE AND ECONOMICAL

OPPORTUNITY TO SELL ABROAD.

OF THE MANY OBSTACLES CONFRONTING THE SMALL NEW-TO-EXPORT COMPANY, CLEARLY THE MOST SIGNIFICANT IS ACCESS TO FINANCING FOR EXPORT SALES AND DEVELOPMENT. TIME AND AGAIN, WE HAVE SEEN SMALLER FIRMS FOREGO SIZEABLE EXPORT SALES FOR LACK OF SHORT TERM FINANCING NEEDED TO CARRY THEIR INVENTORY PRIOR TO EXECUTION OF THE SALE. WE HAVE ALSO SEEN MANY SMALL FIRMS POSTPONE ENTRANCE INTO HIGH POTENTIAL EXPORT MARKETS THAT ARE RIPE FOR THEIR PRODUCT SIMPLY BECAUSE THE SHORT TERM CASH BURDEN OF THE SUPPORT COSTS FOR DEVELOPING AN EXPORT PROGRAM WAS TOO GREAT.

WHILE THE AVAILABILITY AND AFFORDABILITY OF EXPORT FINANCING IS CLEARLY CRUCIAL TO THE DEVELOPMENT OF SMALL BUSINESS EXPORTS,

THE RANGE OF OTHER SERVICES PROVIDED BY A TRADING COMPANY MAKE IT A VEHICLE IDEALLY SUITED TO THE NEEDS OF SMALLER EXPORTING FIRMS.

SPECIFICALLY, TRADING COMPANIES WOULD PROVIDE VALUABLE ASSISTANCE IN THE FOLLOWING AREAS:

(1) MARKET RESEARCH: THE ABILITY OF A PROFESSIONAL TRADING COMPANY TO LOCATE AND EVALUATE MARKETS AND BUYERS FOR PRODUCTS IS BEYOND THAT OF EVEN A SEASONED INDIVIDUAL EXPORTER.

(2) EXPORT MECHANICS: A TRADING COMPANY WOULD HANDLE ALL DOCUMENTATION FOR EXPORT SALES, RELIEVING THE CLIENT FIRM OF THE BURDEN OF WADING THROUGH THE LABYRINTH OF U.S. AND FOREIGN TRADE REGULATIONS.

(3) TRANSPORTATION AND DISTRIBUTION: A TRADING COMPANY WOULD HANDLE THE OFTEN CUMBERSOME DETAILS ASSOCIATED WITH TRANSPORTING AND DISTRIBUTING PRODUCTS TO MARKET.

(4) STRATEGIC PLANNING: A TRADING COMPANY WOULD BRING CONSIDERABLE INTERNATIONAL EXPERTISE TO BEAR ON THE POSITIONING OF PRODUCTS IN FOREIGN MARKETS--QUESTIONS SUCH AS PRICING STRATEGIES, PROMOTIONAL TECHNIQUES AND PRODUCT MODIFICATIONS REQUIRE AN INFORMED JUDGEMENT ABOUT THE PECULIARITIES AND BUSINESS PRACTICES OF SPECIFIC FOREIGN MARKETS.

(5) SHARED FINANCIAL RISK: A TRADING COMPANY'S FINANCIAL COMMITMENT TO A PARTICULAR PRODUCT PRESUPPOSES ITS EXPORT POTENTIAL WITH THE TRADING COMPANY ASSUMING A BUSINESS RISK WHICH MANY SMALLER

FIRMS MIGHT BE UNWILLING OR UNABLE TO BEAR ON THEIR OWN.

TRADING COMPANIES SHOULD NOT BE LOOKED UPON AS A PANACEA TO THIS COUNTRY'S BALANCE OF TRADE PROBLEM, NOR ARE THEY THE ONLY HOPE FOR SMALLER FIRMS. BUT, THE EMERGENCE OF TRADING COMPANIES WOULD BE A TIMELY AND MAJOR FIRST STEP IN DEVELOPING OUR COUNTRY'S ENORMOUS EXPORT POTENTIAL. THE REALITY IS THAT AMERICAN FIRMS, BOTH SMALL AND LARGE, ARE COMPETING NOW IN A WORLD MARKETPLACE.

PROMPT PASSAGE OF (H.R. 6016) WOULD GO A LONG WAY TOWARD BOOSTING THE COMPETITIVENESS OF U.S. PRODUCTS ABROAD AND STRENGTHENING OUR ECONOMY AT HOME. THE NEW ENGLAND CONGRESSIONAL INSTITUTE'S FINDINGS ARE INDEED COMPELLING: THE PRESENCE OF EXPORT TRADING COMPANIES IN NEW ENGLAND

ALONE WOULD GENERATE 500 MILLION NEW EXPORT SALES DOLLARS AND CREATE OVER 10,000 JOBS.

MANY LEGITIMATE POINTS OF VIEW HAVE BEEN RAISED IN THE DISCUSSION OF BANK INVOLVEMENT IN EXPORT FINANCING THAT HAS ENSUED SINCE THE FIRST EXPORT TRADING COMPANY LEGISLATION WAS FILED IN 1977. BUT THE DEBATE HAS GONE ON LONG ENOUGH. NOW IS THE TIME, AS VIRGIL ONCE SAID, "TO LOOK WITH FAVOR ON A BOLD BEGINNING."

I URGE THIS COMMITTEE TO LOOK WITH FAVOR ON (H.R. 6016), A BILL WHOSE PASSAGE WOULD MARK THE "BOLD BEGINNING" OF A NEW ERA IN U.S. EXPORT TRADE.

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FERNAND J. ST GERMAIN, R.I., CHAIRMAN
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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS

WASHINGTON, D.C. 20515

May 4, 1984

Mr. David W. Davis, Executive Director
Massachusetts Port Authority
Hall of States, Suite 307
444 North Capitol St., N.W.
Washington, D. C. 20001

Dear Mr. Davis:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain
Chairman

Enclosure

massport
HALL OF THE STATES, SUITE 307,
444 NORTH CAPITOL ST. N.W., WASHINGTON, D.C. 20001 TEL.(202) 628-1066

RECEIVED
JUN 10 1982
Banking, Finance & Urban Affairs Committee

June 8, 1982

Congressman Fernand J. St. Germain, Chairman
Committee on Banking, Finance and Urban Affairs
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman St. Germain:

I wish to express to you my appreciation for allowing the Massachusetts Port Authority to participate in the export trading company hearings conducted by the Subcommittee on Financial Institutions on April 22nd. Since that time I have received your request for supplemental comments regarding the legislation and have concluded that the Authority discussed the trading company issues with which we possess the greatest familiarity at the hearing in April.

Your continued efforts on behalf of this legislation are most appreciated by those of us in the trade promotional area.

With kind regards.

Sincerely,

David W. Davis
Executive Director

DWD/bph

Chairman ST GERMAIN. Now we will hear from Mr. George Taylor of Citytrust in Bridgeport, Conn.

STATEMENT OF GEORGE F. TAYLOR, CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER, CITYTRUST, BRIDGEPORT, CONN.

Mr. TAYLOR. Thank you, Mr. Chairman. My name is George F. Taylor and I am president and chief executive officer of Citytrust Bancorp, Inc. Our sole subsidiary is Citytrust, a strong and independent bank with 33 branches and assets of approximately $800 million. While we are only the seventh largest bank in the State of Connecticut and ranked 264th nationally, we are very profitable and a high performing bank by commonly accepted banking standards.

I am pleased to be here today to endorse the precepts of H.R. 6016, the Bank Export Services Act. We at Citytrust believe that over the next decade this legislation will not only provide some relief for our ailing national economy through reductions in the export deficit, but also will prove to be beneficial both for our customers and ourselves.

It is my purpose today to briefly outline how we came to this conclusion. During its 134-year history Citytrust has developed strong relationships in the Connecticut manufacturing community in such industrial centers as Bridgeport, Norwalk, Waterbury, and Danbury. We have successfully carved out a niche by developing close banking relationships with small manufacturers based on providing the highest level of financial counsel and service with a full range of innovative products to fulfill their financial needs.

Of the more than 5,500 manufacturing firms operating within the State, a significant percentage use Citytrust as a provider for financial services. Our strongest ties are to small business, companies with annual sales of less than $25 million. We have been successful in a highly competitive and often volatile business environment as a result of our commitment to being a market-driven company rather than trying to be all things to all people.

We have chosen to focus our resources on satisfying the needs of customers and prospects in identified targeted markets which are, for us, profitable growth potential. Over the years we have expanded our business to both new product and geographical areas in the State. We are constantly expanding our capacity to serve the needs of our customers, particularly the small manufacturers.

But under existing bank regulations this new product-oriented strategy reaches a natural limit. At some point traditional banking products will become outdated regardless of how they are packaged. In this area we are very vulnerable to loss of market share from the emerging financial conglomerates. This nonbanking competition will continue to seize upon every opportunity to fill the voids created where regulations inhibit the ability of banks to provide necessary and related new services.

In recent years Connecticut's boundaries have failed to repel the expansionary intentions of the major banks in New York and other neighboring States. Our manufacturing base ranks 16th in size relative to the 50 States and all of it lies within but a 2-hour drive

from Wall Street. Such fertile ground for expansion has obviously not gone unnoticed by the giants in the banking industry.

The increasingly competitive banking environment clearly indicates the need to develop new strategies, ones which will lead the smaller banks like ours into deeper and more mutually supportive relationships with our clients. Only then can the small banks continue to work hand-in-hand with small business, each helping the other to develop and prosper.

We became interested in the ETC legislation because it seemed to offer a basis on which most lasting relationships with our customers might be formed. While export service is a new line of business, it is closely related to a number of traditional banking functions such as collections and letters of credit. As such, it also offers the possibility of expanding the international operations of the bank as well.

To test our assumptions in this regard, we conducted an extensive study of the feasibility of establishing a bank-owned export trading company. As part of this effort we examined each of the manufacturing industries in Connecticut and analyzed relevant information such as the number and size of individual firms, overall production, export potential and similar factors.

From this we determined which industries were not exporting to their full potential and which would be most likely to use export service firms. We also compared this data against our customer base and various market projections and we found that several of the high potential export industries are also our prime market segments for banking services.

A substantial amount of time was also spent collecting and analyzing data on export service firms which are active in servicing the export needs of Connecticut suppliers. Based on this work we were able to identify a small number of firms which could prove to be attractive acquisitions.

We then examined various ways to establish a foothold in the export service business. We compared the benefits and drawbacks of purchasing an existing company versus starting an export trading company de novo. We also examined the prospects for going it alone as the sole investor as compared to sharing ownership with other partners, including banks, present export management companies and suppliers.

In order to develop a feel for the amount of investment that would be required and to establish a viable export trading company we conducted extensive analytical and modeling studies. This work has enabled us to draw some reasonable conclusions about the kind of initial ETC investment we should make, the resources that would be required to support such an investment and the range of potential returns that would be reasonably expected over time.

For example, a $2 million equity contribution, which is within our 5-percent limit, would support, we believe, an ETC with sales of over $20 million. An ETC with such sales volume would rank among the larger export management companies currently operating in our region and would be of respectable size as compared to other existing EMC's across the United States.

Of course, it is not realistic to compare such companies against the Japanese export trading companies which currently export

hundreds of millions or even billions of dollars of U.S. goods every year. However modest the projections for our ETC may seem, the return on such an investment would be attractive, providing that products and markets are properly selected.

Our analysis of potential investments under the proposed legislation also took into full account normal ETC business risks. Such risks include loss of supply and markets, political, foreign exchange, credit and warranty risks, uninsured losses due to damage in shipping, shipping rate changes, failure to recoup costs incurred in the promotion of new products abroad, management and sales force turnover, and operational errors.

There are also some intangible risks such as damage to reputation or image and penalties due to failure to meet legal and regulatory requirements. Appropriate operating and financial controls, proper selection of managers and supervisors, qualified legal counsel, and judicious use of market research information can be brought to bear on the day-to-day operation of the ETC and thus minimize risk exposure.

Certain risks such as currency inconvertibility, cargo jettisons and the like can be minimized through various insurance programs. Other risks, particularly those relating to money transactions, can be mitigated by the application of skills commonly found in banks. In this regard, the relationship between the bank and its ETC's would work to the ETC's benefit. While it cannot be completely eliminated, it certainly can be maintained within acceptable limits

Our study also brought out a number of other unique problems which banks might encounter in their efforts to establish and manage ETC's. For example, there are relatively few export management companies available for acquisition by banks. This means that early bank investors will have the best acquisition opportunities.

Likewise, there are relatively few skilled managers in the underdeveloped export management business and even fewer who have experience in dealing with large institutional owners. This suggests that bank investors should expect to encounter some initial difficulty in establishing controls over ETC acquisitions.

In a different vein, it seems that many American manufacturers who are potential ETC customers feel a basic need to maintain close control over marketing and sales operations. Therefore, it is difficult for them to turn over responsibility for international marketing and a share of the profits to an outside sales intermediary, even when such a move is fully cost justified.

On the overseas end of the business, there is also the constant threat of the buyer trying to bypass the ETC middle man to get lower direct pricing from the U.S. supplier. I mention these problems to show that we have done our homework and that even though such problems may arise we nevertheless believe that ETC investments are worthwhile.

The combined bank-ETC relationship will naturally tend to reduce the severity of some of these problems and to aggrevate others. For example, the insertion of a bank's financial officer into the ETC management team will make it easier for the ETC to develop needed financial reporting systems. The selection of the right

individual for this purpose will have a great deal to do with the successful indoctrination of the ETC management into the bank investor's methods of doing business. This in turn may determine whether or not the bank's acquisition of an ETC is ultimately successful.

We are now giving a great deal of thought to devising the approaches to these problems which will minimize their impact after acquisition. However, we do not expect any solutions, any easy solutions, to arise. We, as well as other bank investors, will need considerable assistance in operating room from the regulators here in Washington. We, therefore, welcome this particular legislation which appears to lay down broad congressional policy and does not prescribe very many specific rules to govern the conduct of the ETC-bank owner relationship or the day-to-day operations of the ETC's.

We do feel that this bill's prohibition on the use of the banking investor's name in association with an affiliated ETC may be a disincentive to investment. Our strategy is based on strengthening the bank's relationship with small business by providing a comprehensive level of service. We would therefore suggest that bank investors who are willing to take a controlling interest in ETC's be given the option, subject to Federal Reserve Board approval or regulation, of using their name in association with their ETC business activities.

We are also particularly pleased by the introduction of a provision which expands the overall basic limit on bankers' acceptances from 50 percent of the bank's unimpaired capital to 150 percent of such capital.

In summary, we at Citytrust view the concept of a bank-owned ETC as advantageous to our growth and necessary to protect the banking relationships with our important small business customers. We are confident that passage of this legislation would be beneficial to our customers and the nation as a whole. I therefore reiterate our support for the Bank Export Services Act.

I would like to take this opportunity to express our willingness to work with your staff on any aspects of this legislation where our input may be of assistance.

Thank you very much, Mr. Chairman.

Chairman ST GERMAIN. Thank you, Mr. Taylor. Thank you for your offer of continued assistance.

[The prepared statement of Mr. Taylor along with a letter from Chairman St Germain requesting comment on the issues of H.R. 6016 and Mr. Taylor's response follow:]

Statement of

George F. Taylor

President and Chief Executive Officer

Citytrust Bancorp, Inc.

on

The Bank Export Services Act

Before the

Subcommittee on Financial Institutions Supervision,

Regulation and Insurance

of the

Committee on Banking, Finance and Urban Affairs

U. S. House of Representatives

April 22, 1982

Mr. Chairman, members of the Subcommittee, ladies and gentlemen. . .

My name is George F. Taylor, and I am the President and Chief Executive Officer of Citytrust Bancorp, Inc. Our sole subsidiary is Citytrust, a strong and independent bank with 33 branches and assets of approximately $800 million. While we are only the seventh largest bank in the State of Connecticut and rank 264th nationally, we are very profitable and a high-performing bank by commonly accepted banking standards.

I am pleased to be here today to endorse the precepts of H.R. 6016 - The Bank Export Services Act. We at Citytrust believe that over the next decade, this legislation will not only provide some relief for our ailing national economy, through reductions in the export deficit, but also will prove to be beneficial for both our customers and ourselves. It is my purpose today to briefly outline how we came to this conclusion.

During its 134-year history, Citytrust has developed strong relationships in the Connecticut Manufacturing community in such industrial centers as Bridgeport, Norwalk, Waterbury and Danbury. We have successfully carved out a niche by developing close banking relationships with small manufacturers, based on providing the highest level of financial counsel and service, with a full range of innovative products to fulfill their financial needs. Of the more than 5500 manufacturing firms operating within the state, a

significant percentage use Citytrust for a variety of financial services. Our strongest ties are to small business, companies with annual sales of less than $25 million. We have been successful in a highly competitive and often volatile business environment as a result of our commitment to being a market-driven company. Rather than trying to be all things to all people, we have chosen to focus our resources on satisfying the needs of customers and prospects in identified target markets which offer us profitable growth potential.

Over the years we have expanded our business into both new product and geographical areas in the State. We are constantly expanding our capacity to serve the needs of our customers -- particularly, the small manufacturers.

But under existing bank regulations, this new-product-oriented strategy reaches a natural limit. At some point, traditional banking products will become outdated regardless of how they are packaged. In this area we are very vulnerable to loss of market share from the emerging financial conglomerates. This "non-banking" competition will continue to seize upon every opportunity to fill the voids created where regulations inhibit the ability of banks to provide necessary and related new services.

In recent years, Connecticut's boundaries have failed to repel the expansionary intentions of the major banks in New York and other neighboring states. Our manufacturing base ranks 16th in size relative to the 50 states, and all of it lies within but a two-hour drive from Wall Street. Such fertile ground for expansion has obviously not gone unnoticed by the giants in the banking industry.

The increasingly competitive banking environment clearly indicates the need to develop new strategies, ones which will lead the smaller banks like ours into deeper and more mutually supportive relationships with our clients. Only then can the small banks continue to work hand in hand with small business, each helping the other to develop and prosper.

We became interested in the ETC legislation because it seemed to offer a basis on which more lasting relationships with our customers might be formed. While export service is a new line of business, it is closely related to a number of traditional banking functions, such as collections and letters of credit. As such, it also offers the possibility of expanding the international operations of the bank as well.

To test our assumptions in this regard, we conducted an extensive study of the feasibility of establishing a bank-owned export

trading company. As part of this effort, we examined each of the manufacturing industries in Connecticut and analyzed relevant information such as the number and size of individual firms, overall production, export potential and similar factors. From this, we determined which industries were not exporting to their full potential and which would be most likely to use export service firms.

We also compared this data against our customer base and various market projections, and we found that several of the high potential export industries are also our prime market segments for banking services.

A substantial amount of time was also spent collecting and analyzing data on export service firms which are active in servicing the export needs of Connecticut suppliers. Based on this work, we were able to identify a small number of firms which could prove to be attractive acquisitions.

We then examined various ways to establish a foothold in the export service business. We compared the benefits and drawbacks of purchasing an existing company versus starting an export trading company de novo. We also examined the prospects for going it alone as the sole investor as compared to sharing ownership with other partners including banks, present ETC owners and suppliers.

In order to develop a feel for the amount of investment that would be required to establish a viable export trading company, we conducted extensive analytical and modeling studies. This work has enabled us to draw some reasonable conclusions about the kind of initial ETC investment we should make, the resources that would be required to support such an investment, and the range of potential returns that could be reasonably expected over time.

For example, a two million dollar equity contribution, which is within our 5% limit, could support, we believe, an ETC with sales of over $20 million. An ETC with such sales volume would rank among the larger export management companies currently operating in our region, and would be of respectable size as compared to other existing EMCs across the U.S. It is not, of course, realistic to compare such companies against the Japanese export trading companies, which currently export hundreds of millions or even billions of dollars of U.S. goods every year. However modest the projections for our ETC may seem, the return on such an investment would be attractive, providing products and markets are properly selected.

Our analysis of potential investments under the proposed legislation also took into full account normal ETC business risks. Such risks include loss of suppliers and markets; political, foreign exchange, credit and warranty risks; uninsured losses due to damage in shipping; shipping rate changes;

failure to recoup costs incurred in the promotion of new products abroad; management and sales force turnover and operational errors. There are also the intangible risks such as damage to reputation or image and penalties due to failure to meet legal and regulatory requirements.

Appropriate operating and financial controls, proper selection of managers and supervisors, qualified legal counsel, judicious use of market research information, etc., can be brought to bear on the day-to-day operation of ETC and thus minimize risk exposure. Certain risks such as currency inconvertability, cargo jettisons, and the like can be minimized through various insurance programs. Others, particularly those related to money transactions (foreign exchange, etc.), can be mitigated by the application of skills commonly found in banks. In this regard, the relationship between the bank and its ETCs would work to the ETC's benefit. While risk cannot be completely eliminated, it certainly can be maintained within acceptable limits.

Our study also brought out a number of other unique problems which banks might encounter in their efforts to establish and manage ETCs. For example, there are relatively few EMC companies available for acquisition by banks. This means that the early bank investors will have best acquisition opportunities. Similarly, there are relatively few skilled managers in the underdeveloped export management business and even fewer who have experience in

dealing with large institutional owners. This suggests that bank investors should expect to encounter some initial difficulty in establishing controls over ETC acquisitions.

In a different vein, it seems that many American manufacturers (who are potential ETC customers) feel a basic need to maintain close control over marketing and sales operations. Therefore, it is difficult for them to turn over the responsibility for international marketing, and a share of the profits, to an outside sales intermediary, even when such a move is fully cost justified. On the overseas end of the business, there is also the constant threat of the buyer trying to bypass the ETC middleman to get lower direct pricing from the U.S. supplier.

I mention these problems to show that we have done our homework, and that eventhough such problems may arise, we nevertheless believe that ETC investments are worthwhile. The combined bank/ETC relationship will naturally tend to reduce the severity of some of these problems and to aggravate others. For example, the insertion of a bank's financial officer into the ETC management team will make it easier for the ETC to develop needed financial reporting systems. The selection of the right individual for this purpose will have a great deal to do with the successful indoctrination of ETC management into the bank investor's methods of doing business. This in turn may determine whether or not a bank's acquisition of an ETC is ultimately successful.

We are now giving a great deal of thought to devising approaches to these problems which will minimize their impact after acquisition.

However, we do not expect any easy solutions to arise and we, as well as other bank investors, will need considerable assistance and operating room from the regulators here in Washington. We therefore welcome this particular legislation which appears to lay down broad Congressional policy and does not prescribe very many specific rules to govern the conduct of ETC-bank owner relations, or the day-to-day operations of the ETCs.

On the other hand, we do not perceive a clear rationale for placing the capital and surplus limitation on a bank's equity contribution to an ETC at 5%. Although as I previously stated, this level of contribution would allow the establishment of an ETC of the size currently existing in our market area, it would not meaningfully aid in achieving the Congressional objective of substantial growth in export capabilities. Investment in other non-banking businesses (as under the Edge Act) are subject to a 10% limit even though the risks associated therewith may be just as high. Also, in view of the fact that ETCs do not have very much in the way of marketable collateral, banks may not be in a position to finance their ETCs with loans. We believe

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that the combined effect of the 5% limit, and the imposition of the traditional collateralization rules under Section 23(a) of the Federal Reserve Act, will be to limit the capital available from the parent bank to 5%. This would substantially reduce the sales potential for bank-owned ETCs and thus seems to work against the expressed purpose of Congress to stimulate U.S. exports. It seems to us that the 10% limit would be preferable and regulations should be designed to permit banks to decide whether their investments up to that limit should be in the form of equity or loans.

We also strongly feel that this bill's prohibition on the use of the banking investor's name in association with an affiliated ETC may be a serious disincentive to investment. We expect to benefit by marketing our international banking services along with our ETC capability. Our strategy is based on strengthening the bank's relationship with small businesses by providing a comprehensive level of service. We would therefore suggest that bank investors who are willing to take a controlling interest in ETCs be given the <u>option</u> (subject to Federal Reserve Board regulation) of using their name in association with their ETC business activities.

We are also particularly pleased by the introduction of the provision which expands the overall basic limit on bankers acceptances from 50 percent of the bank's unimpaired capital to 150 percent of such capital.

In summary, we at Citytrust view the concept of a bank-owned ETC as advantageous to our growth and necessary to protect the banking relationships with our important small business customers. We are confident that passage of this legislation would be beneficial to our customers and the nation as a whole. I therefore reiterate our support for The Bank Export Services Act.

My colleagues and I would, of course, be pleased to answer any questions you might have. I would also like to take this opportunity to express our willingness to work with your staff on any aspects of this legislation where our input may be of assistance.

FERNAND J. ST. GERMAIN, R.I., CHAIRMAN
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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS

WASHINGTON, D.C. 20515

May 4, 1984

Mr. George Taylor
Chairman of the Board and
Chief Executive Officer
Citytrust
961 Main Street
Bridgeport, Connecticut 06601

Dear Mr. Taylor:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain
Chairman

Enclosure

BRIDGEPORT,
CONNECTICUT 06601
(203) 384-5520

GEORGE F. TAYLOR
Chairman of the Board
and
Chief Executive Officer

MAY 17 1982

May 14, 1982

Honorable Fernand St Germain
House of Representatives
Subcommittee on Financial Institutions
of the Committee on Banking, Finance
and Urban Affairs
Washington, D. C. 20515

Dear Mr. St Germain:

We appreciate the opportunity to respond to the issues raised in your letter of May 4, 1982. Our comments follow the Summary of HR 6016 issues listed from your correspondence.

1. "In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

A limitation on ETC ownership to only bank holding companies or Edge Act companies has certain advantages such as ease in administration and creating another level of legal separation of banking from commerce. However, it appears to us that the exclusion of banks, per se, from direct ETC investment would discriminate against those banks which are of sufficient size and capability to make safe and sound investments in an ETC, but which for various good reasons have not to date structured themselves into a bank holding company.

Such a flat prohibition would have two effects:
(i) it would diminish the potential for increases in exports which is the prime Congressional objective underlying the legislation; and (ii) it would prevent these banks from using the ETC in support of the banks' traditional international business, and likewise leave their commercial lending business more exposed to the commercial financing activities of the large developing financial conglomerates (e.g. G.E. and Sears which have recently announced the formation of ETCs).

It seems to us that the Congress could strike a middle ground by permitting banks, per se, to invest in ETCs, subject to the prior approval of regulatory agencies which could devise special safeguards (if needed) to protect such banks' assets from undue exposure to ETC risks.

2. "If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?"

The basic concept of Export Trading Companies is quite different than the concept behind the formation of R.E.I.T.s, in that the latter involved an investment in security-type interests on a public level.

It is not the function of ETCs to publicly market such interests, but rather they are designed to provide export services to suppliers of export products and services. Such suppliers typically have considerable business experience. It is therefore much less likely that they would mistakenly believe that an ETC with a name similar to a banking parent was one and the same legal entity.

We believe that the simplest way to prevent any misleading use of similar names would be for the regulatory agencies to require ETCs and banks to clearly describe to such parties their relationship and the legal responsibilities (or lack thereof) of the banking parent for the actions or liabilities of an affiliated ETC.

An alternate approach (But one which introduces less flexibility in terms of the proper development of ETCs) would be to permit the use of a banking parent's name in that of an ETC subsidiary (e.g. where the banking parent has a controlling interest in the ETC) and to make the use of similar names in cases where the banking investor has no control subject to prior regulatory approval.

3. "How do you maintain the primary purpose of ETC legislation if the 'exclusively' requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition."?

A hallmark of modern export trading companies is their ability to profitably conduct bilateral and three-way trade. The "exclusive export" requirement would restrict their profit making abilities. It would thereby increase the risk of doing business, and thus increase the risks for banking institutions' investing in ETCs.

Also, if bank related ETCs do not have the freedom to compete with foreign competitive ETCs (who are under no similar restrictions) on an equal basis, they will be placed at a serious disadvantage. Additionally, in times like this of worldwide recession, it is increasingly the rule that foreign governments will require importers to their countries (e.g. a U.S. ETC) to also export goods.

There is no evidence that foreign ETCs import more than they export. To the contrary, they are supported by their governments precisely because they increase exports, even though they also engage in some importing.

Typically, the Japanese trading companies export mostly high value manufactured goods, and import lower cost raw materials, semi-finished goods and low value products. This technique has been clearly useful in helping to boost Japan's trade surplus to an unprecedented high, and very likely accounts for a substantial number of jobs.

It would not appear therefore to be good policy to tie the hands of the new bank related American ETCs with an "exclusive exporting" provision, or with any other rigid formulas which might prove quite troublesome in practice.

The preferred long-term approach should be to permit the bank-related ETCs to feel their way as they develop, and require only that their "primary purpose" shall be exporting. This might be accomplished by requiring such a purpose to be stated explicitly in the ETCs Articles of Incorporation. The regulatory agencies would then be in a position to monitor their development, and if a history of abuse (i.e. consistent excessive importing occurs) to use the threat of withdrawal of approval from a related bank's investment to force a general compliance with the exporting principle.

4. "The present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?"

Yes, this is an area best left to regulatory discretion. Again, bank-related ETCs should be allowed a great deal of room to evolve during their developmental stage. One of their prime attactions to U.S. manufacturers would be their ability to modify U.S. products to suit the demands of foreign markets. Such modification can be viewed as a service performed for the U.S. producer, who for cost or other reasons prefers to leave the modifications to the export trading company, which by reason of its superior market knowledge is best able to achieve the final product.

The regulators should be asked by Congress to design general rules that may be applied on an industry by industry basis so that maximum flexibility (and hence exports) is achieved.

5. "Are HR6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?"

Our study of this issue indicates that a 5% limit will be too restrictive, if the Congressional objective is, to significantly increase

exports. The underlying issue is one of leverage. The current sales to equity ratio for existing U.S. export management companies at best only reaches 10:1. They usually achieve less because the limited amount of equity available to them does not permit them to grow to a size sufficient to attain maximum economies of scale.

Permitting banking investors to invest up to 10% of their capital and surplus in equity loans could, in theory at least, double the export sales potential. The 10% limit has been used successfully as the upper limit for other financial service related investments by banks, and it would appear to be important, if the maximum in new exports is to be achieved, to apply the same limit to their investments in ETCs.

6. "Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?"

It is our belief, based on considerable study, that ETCs cannot be successful without the ability to take title. It is precisely that characteristic that allows them to effectively represent the small and medium-sized manufacturer.

It is this purchase of goods on a domestic transaction basis which induces the smaller producer to export at all (no long-term financial commitments, little risk,etc.). By taking title (and accepting added risks), ETCs are in a position to charge a premium price to such manufacturers for their services as intermediaries. The greater revenues permit them in turn to offer better services, and to solidify their position in the market place. They are then able to achieve greater stability and can afford to employ better managers, who in turn are ultimately able to reduce the actual risks of doing business to a minimum through such common techniques as inventory control, insuring risks, improved customer credit checks, etc.

"Title taking" could, in fact, be viewed as the most efficient method available to safeguard banking investments, because it introduces a degree of self-regulation through the good management purchased with the higher profit margin. The rules of good management apply to ETCs just as much as to any other business.

7. "In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?"

ETCs may be differentiated from other businesses in that they do not, if managed properly, invest very much equity in capital assets. Their prime resources are the skills of their personnel. Aside from office space, furniture and communications equipment (telexes and telephones), they have little need for capital assets. A well-managed ETC will take an inventory position (in stock) only where necessary to improve sales (e.g. for a steady customer with an assured stream of orders). Overall this permits them to focus the use of their equity to improve service capability by adding personnel, and to generate more sales by creating customer credit.

Since ETCs lack substantial assets to use as collateral for loans, their sales are limited generally by the amount of internal capital (equity and profits) they can generate, plus the amount of outside customer financing (direct bank loans to customers) that they can arrange to clinch a sale.

As a general rule therefore, even though ETCs may operate on a sound business basis, they will have no internal means for obtaining credit on their own.

Therefore, we believe that the best option is for bank investors, subject to approval, to be able to contribute up to 10% of capital and surplus in either equity or loans. The lesser alternative would be to make an exception to the rules established by Section 23(A) of the Federal Reserve Act. If an ETC's capital base is limited to 5% of the parent institution's capital and surplus, and if Section 23(A) is applied as currently written, then the practical effect will be that export sales generally will be limited by their leverage on the 50%. Our answer to question #5 describes the dampening effect that this will have on new exports.

For this reason, we believe that the Congress should require a relaxation in the application of FRA §23(A) by the regulators, under controlled circumstances. The mechanism provided in SB 734, Title I, Section 105 (d) (6) would appear to do this to a degree, by permitting parent bank loans to be uncollateralized to the extent that such funds are used to finance the affiliated ETCs operating expenses.

Our studies indicate that the operating expenses of a medium-sized ETC may be roughly equivalent to its equity. On that basis, its use of uncollateralized parent investor loans to cover operating expenses would free up sufficient capital to strongly improve sales and overall profitability. Assuming that it applied the same customer credit standards, the ETC's risks would not increase in proportion to either sales or profitability.

This suggests that the regulators could achieve the objective of limiting the bank investors risks by requiring good judgment to be exercised in granting customers' credit. By adopting the 10% limit on use of capital and surplus, the Congress is, in any event, setting the overall standard ceiling on the bank investor's total risk exposure. Together, these approaches will continue to ensure the safety and soundness of the banking system.

We thank you for this opportunity to place these additional comments on HR6016 in the record.

Very truly yours,

George F. Taylor

George F. Taylor
Chairman of the Board
and Chief Executive Officer

GFT/img

Chairman ST GERMAIN. Now we will hear from our clean-up hitter, Mr. Anderson of Rhode Island.

STATEMENT OF ALDEN M. ANDERSON, PRESIDENT, HOSPITAL TRUST CORP.

Mr. ANDERSON. Thank you, Mr. Chairman. I am Alden M. Anderson, president of the Hospital Trust Corp., a one-bank holding company of approximately $1.9 billion in assets located in Providence, R.I. I would say that we are not termed a money center bank and I do not believe our State could become the largest or economically the most successful State in the country.

However, I do believe that this piece of legislation if enacted would provide the financial institutions in our area, such as our corporation, the ability to work better with industry as it develops in New England, as it retools to bring more value to the people who are really the life and blood of the community and, obviously, our bank and the other businesses in the area.

I will not reiterate for the sake of brevity many of the things I think have been said here, and also will not follow my text. What I would like to do is just briefly talk in relation to the small and medium-size business and the banking involved here, and specifically, our own thoughts.

There is no question in our mind that the adoption of export trading company legislation would make a significant contribution in the long run to increasing exports. It would be, in our opinion, particularly helpful to small and medium-sized business, thus creating jobs. Businesses with products which could be sold overseas currently face numerous obstacles including unfamiliarity with overseas markets, inability to assess the risks involved, and unfamiliarity with regulations and paperwork requirements not only in the foreign market but frankly, in the domestic area, to be able to arrange for exports.

Large companies that have larger export capabilities and individuals in their organization are able to develop the scale of economy to allow them to operate much more effectively. This is not available to the smaller companies, as it stands now, to any particular extent. This is exactly the role that we feel the Export Trading Company Act would provide.

The Northeast as an area is obviously, because of many factors, somewhat depressed. This does not mean that there are not very good opportunities in the area as well as in Rhode Island. In Rhode Island we see a number of opportunities for exporting in the manufacturing sector. You made reference, Mr. Chairman, as has been stated in the New England Congressional Institute Survey, of the opportunities that are forthcoming to us if we have a better mechanism to move things forward.

In Rhode Island alone, currently we have 17 percent of our employment, total manufacturing employment, aimed toward export-oriented business. That is roughly 21,000 jobs. But because of the difficulties ascribed to the small and medium-sized firms involved, these jobs are really held by the larger firms, not by the smaller firms. There is a whole market of somewhere better than a thousand companies that could be provided, as the gentleman on my

right indicated in his statement, opportunity to share in a larger marketplace, expand business opportunities, earn more profit, contribute more to the economy of the state and provide certainly more jobs.

Indeed, banking institutions are uniquely equipped, in our opinion, to set up and manage export trading companies. I would not comment on the risks and concerns that have been expressed. We feel much of what we have done in the past and what we do presently would assist.

If you recall, banking originally was set up to help trade. We have very definitely international and domestic contacts to put buyers and sellers together. We also have correspondent networks. Without bank participation, in our opinion we see it is very difficult to find out how export trading companies would be developed in years to come and frankly, where the capital would come from.

The importance and efficiency of bank participation is best demonstrated, as has been well indicated, by foreign bank participation throughout the world and certainly in certain parts of our country. Those economies where banks have been allowed to participate and act in the trading environment have certainly had a strong showing in the national and world markets, and we believe that these financial institutions are strongly in support of their countries.

At Hospital Trust, we have an experienced group of commercial lending people who travel and work with both domestic exporters and foreign purchasers. We have a recent book of business not nearly as large as some of the other institutions like the First of Boston, but relative to our marketplace and to the type of companies we deal with, we believe we provide useful and efficient export financing.

Our bank also has a specialty in the gold business, as we know you are aware and this type of trading expertise and hedging capability that we have done in that business would be very valuable to carry on to exporters as they deal in foreign exchange and other issues in foreign trade. Through contacts we have with other trading companies, international businesses, we could very easily place goods with the small- and medium-sized companies.

We have already been approached by a number of local manufacturers who have come to us for advise and financial support in exporting their products. We know that there is foreign interest in U.S. goods but our would-be exporters are unable to complete the paperwork and deal with all the regulations in handling the actual trade efforts. We are working with importers of U.S. goods and we are already dealing through our credit programs via Ex-Im. We have experience in this and we are a proponent of this type of program.

In other words, what we are doing already we feel can be taken into the export trading company market, provide for the growth and development in the community and in the region and really not do a great deal more than what we are doing now, but putting it in a more realistic, organized approach that can work much more effectively for the benefit of the customer.

Before I close I would like to address several changes that we think would be appropriate. We are fully in support of the bill, in many of its provisions, the acceptance provision as included. The

ownership of an export trading company, the full ownership or control issue we believe is appropriate. We personally do not believe that the fact that a bank can own it is particularly onerous to us, but know that other people do feel it is a problem.

The things that we are most concerned about deal with, first of all, the exclusivity comment that basically would restrict the ability to import. There is no question that barter, countertrade, switch clearings, and other things that are traditional in export/import financing require both-way trade. If this bill should limit institutions that are able to act in the export trading business from being able to provide for importation, and have an active bilateral rather than unilateral type of relationship, I believe the legislation's intent will be much less effective.

Second, we believe that section 23A of the Federal Reserve Act should not be used as a method of managing or controlling investment and extension of credit from a bank holding company, bank or Edge, to its export trading company. I do not believe the original intent of that section of the act was intended to be carried as far as it is in this situation. I think it is a complex piece of legislation and it would be better handled for export trading companies if we focused on what the business of a trading company was and had rules and regulations related to that rather than taking a broader piece of control mechanism an applying it.

Third, we are concerned about the position that the Federal Reserve Board has taken, which seems to be rather limiting in the ownership, and I do not believe particularly supportive, as I understand it, to the bill. We think that if Congress intent—and this subcommittee's intent—is to move this piece of legislation forward, we would like to see some provocative and forward-looking language applied in the bill so that the Federal Reserve can understand clearly and follow the intent of Congress if it should be passed.

Next, we feel that the lack of including insurance in the House bill is inappropriate, and we would suggest a reconsideration of putting the insurance back into this bill as an integral part of the trading process.

And finally, we believe that the limitation of 5 percent of a holding company's capital and surplus may, in the long run, prove overly restrictive. We understand the reasons for some limitations initially, but if the intent here is to enhance and develop trade, to provide the type of jobs that can be created, then we do not want to arbitrarily limit the amount that can be invested by a bank or a holding company into this entity that in turn can grow as the success of the community grows likewise.

So, I suggest that the Board or the subcommittee consider possibly expanding now or in the future this provision. I appreciate, having come from Rhode Island, being here today and thank you for your consideration.

[The prepared statement of Mr. Anderson along with a letter from Chairman St Germain requesting comments and answers to questions on H.R. 6016 and Mr. Anderson's response follow:]

TESTIMONY OF

ALDEN M. ANDERSON

PRESIDENT

HOSPITAL TRUST CORPORATION

ON

THE BANK EXPORT SERVICES ACT

H. R. 6016

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE

OF THE

COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

APRIL 22, 1982

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, MY NAME IS ALDEN M. ANDERSON, AND I AM PRESIDENT OF HOSPITAL TRUST CORPORATION, PROVIDENCE, RHODE ISLAND. I AM TESTIFYING TODAY IN SUPPORT OF H.R. 6016, THE BANK EXPORT SERVICES ACT.

EVERYONE IS AWARE OF THE CURRENT PROBLEMS IN OUR ECONOMY AND THE IMPORTANCE OF INCREASING OUR EXPORTS. OTHERS WILL BE TESTIFYING IN GREATER DETAIL ON THE NEED TO SPUR EXPORTS, AND THEREFORE I WILL DEAL WITH THE SUBJECT ONLY BRIEFLY. TODAY, ONLY ABOUT ONE OUT OF TEN DOMESTIC MANUFACTURERS EXPORT ANY OF THEIR PRODUCTS. FURTHERMORE, ONLY 1% OF U. S. FIRMS ARE RESPONSIBLE FOR 80% OF OUR EXPORTS; THUS, IT IS WITH THE SMALL AND MEDIUM SIZE FIRMS THAT THE GREATEST OPPORTUNITY FOR INCREASING EXPORTS EXISTS.

WE, IN THE U. S., CURRENTLY EXPORT APPROXIMATELY 8% OF OUR GNP, WHILE OUR TRADING PARTNERS EXPORT IN THE RANGE OF 20% OF THEIR GNPs. THERE ARE A NUMBER OF REASONS FOR OUR RELATIVELY WEAK SHOWING IN EXPORTS RELATIVE TO OTHER DEVELOPED COUNTRIES INCLUDING LACK OF PROACTIVE LEGISLATION AND EFFECTIVE PRIVATE SECTOR MECHANISMS.

THE ADOPTION OF EXPORT TRADING COMPANY LEGISLATION WOULD MAKE A SIGNIFICANT CONTRIBUTION, IN THE LONG RUN, TO INCREASING OUR EXPORTS. IT WOULD BE PARTICULARLY HELPFUL TO SMALL AND MEDIUM SIZE BUSINESSES. SUCH BUSINESSES, WITH PRODUCTS WHICH COULD BE SOLD OVERSEAS, CURRENTLY FACE NUMEROUS OBSTACLES -- INCLUDING UNFAMILIARITY WITH OVERSEAS MARKETS, INABILITY TO ASSESS THE RISKS INVOLVED, AND UNFAMILIARITY WITH REGULATIONS AND PAPERWORK REQUIREMENTS BOTH IN THE U. S. AND THE IMPORTING COUNTRY. WHILE LARGE COMPANIES MAY HAVE SUFFICIENT ECONOMIES TO SCALE TO DEVELOP THE EXPERTISE TO OVERCOME THESE OBSTACLES,

SMALL AND MEDIUM SIZE COMPANIES DO NOT. THIS IS PRECISELY THE ROLE THAT EXPORT TRADING COMPANIES WOULD FILL.

MR. CHAIRMAN, WE BELIEVE EXPORT TRADING COMPANIES WOULD BE ESPECIALLY HELPFUL IN THE NORTHEAST AND, PARTICULARLY, IN RHODE ISLAND. IN RHODE ISLAND, AS WELL AS NEW ENGLAND, CERTAIN ELEMENTS OF OUR MANUFACTURING SECTORS ARE ALREADY ACTIVELY INVOLVED IN EXPORT MARKETS. MR. CHAIRMAN, YOU MADE REFERENCE TO THIS WHEN YOU INTRODUCED H.R. 6016 IN THE HOUSE WITH INFORMATION FROM THE NEW ENGLAND CONGRESSIONAL INSTITUTE SURVEY. RHODE ISLAND MANUFACTURING JOBS WHICH ARE EXPORT ORIENTED ACCOUNT FOR NEARLY 17% OF TOTAL MANUFACTURING EMPLOYMENT IN THE STATE, OR ROUGHLY 21,000 JOBS. BECAUSE OF THE DIFFICULTIES ASCRIBED TO SMALL AND MEDIUM SIZE FIRMS BECOMING INVOLVED IN FOREIGN TRADE, THESE EXPORT ORIENTED JOBS ARE PRIMARILY CENTERED IN A SELECT NUMBER OF LARGE FIRMS IN RHODE ISLAND. EXCLUDED TO A LARGE DEGREE ARE OVER 1,850 SMALLER FIRMS IN OUR STATE. RHODE ISLAND AND NEW ENGLAND HAVE VERY FEW EXPORT TRADING COMPANIES AND THOSE THAT DO EXIST ARE SMALL AND UNDERCAPITALIZED TO ACCOMPLISH MEANINGFUL ACTIVITIES.

INDEED, BANKING INSTITUTIONS ARE UNIQUELY EQUIPPED TO SEP UP EXPORT TRADING COMPANIES. THEY HAVE EXPERIENCE IN TRADE FINANCING. THEY HAVE BOTH THE INTERNATIONAL AND THE DOMESTIC CONTACT TO PUT BUYERS AND SELLERS TOGETHER THROUGH EITHER THEIR OWN OFFICES OR THEIR CORRESPONDENT NETWORKS. BANKS WERE ORIGINALLY FOUNDED TO PROMOTE TRADE AND BANKING HAS CONTINUED THIS ACTIVITY OVER THE YEARS. FURTHERMORE, WITHOUT BANK PARTICIPATION, IT IS DIFFICULT TO SEE WHERE THE NEEDED

97-362 O—82——12

INVESTMENT IN EXPORT TRADING COMPANIES WILL COME FROM. THE IMPORTANCE OF BANK PARTICIPATION IS BEST DEMONSTRATED BY THE ACTIVE PARTICIPATION OF MANY FOREIGN BANKS IN TRADING COMPANIES. IT IS ALSO WORTH NOTING THAT MANY OF THE ACTIVITIES WHICH WILL BE PERMITTED TO BANKING INSTITUTIONS UNDER THE LEGISLATION BEFORE THE SUBCOMMITTEE ARE REALLY NOT ALL THAT DIFFERENT FROM MANY OF THE ACTIVITIES IN WHICH U. S. BANKS HAVE LONG BEEN INVOLVED OVERSEAS. TO A CERTAIN EXTENT, THIS LEGISLATION ENABLES US TO PUT THESE ACTIVITIES IN A COHERENT, MORE EFFICIENT PACKAGE AND TO INTERFACE DIRECTLY WITH THE U. S. MARKET. IT IS IMPORTANT THAT BANKING INSTITUTIONS BE PERMITTED TO CONTROL EXPORT TRADING COMPANIES. IT IS MOST DOUBTFUL THAT MANY SUCH INSTITUTIONS WOULD TAKE MINORITY INTERESTS.

THE HOLDING COMPANY FORMAT IS ADEQUATE AS FAR AS HOSPITAL TRUST IS CONCERNED. WE ARE AWARE, HOWEVER, THAT OTHER INSTITUTIONS MAY FIND THE ALTERNATIVE OF A DIRECT BANK SUBSIDIARY MORE ATTRACTIVE.

AT HOSPITAL TRUST WE HAVE EXPERIENCED OFFICERS IN THE FIELD OF INTERNATIONAL FINANCE, SPECIALIZED KNOWLEDGE IN CERTAIN TRADE AREAS SUCH AS GOLD AND OTHER PRECIOUS METALS, ACCESS TO AN EXTENSIVE INTERNATIONAL CORRESPONDENT BANK SYSTEM AND BUSINESS CONTACTS THROUGHOUT THE WORLD. THROUGH CONTACTS THAT WE HAVE WITH OTHER TRADING COMPANIES AND INTERNATIONAL BUSINESSES WE WOULD BE ABLE TO PLACE THE GOODS OF THE SMALL AND MEDIUM SIZE REGIONAL BUSINESSES WHO KNOW THAT THERE ARE FOREIGN MARKETS FOR

THEIR GOODS BUT DO NOT HAVE ACCESS NOR DO THEY HAVE THE TIME AND EXPERTISE REQUIRED TO FACILITATE THE MOVEMENT OF THESE GOODS. WE HAVE ALREADY HAD THE EXPERIENCE OF BEING APPROACHED BY LOCAL MANUFACTURERS WHO HAVE COME TO US FOR FINANCIAL SUPPORT, WHO HAVE HAD FOREIGN INTEREST IN THEIR GOODS, BUT ARE UNABLE TO COMPLETE THE NECESSARY PAPERWORK AND ARE UNFAMILIAR WITH THE NUMEROUS TRADE REGULATIONS. WE ARE WORKING WITH IMPORTERS OF U. S. GOODS AND WE ARE ALREADY DEALING WITH A BUYER'S CREDIT PROGRAM UNDER GUARANTEES OF THE EXPORT IMPORT BANK AND THE FOREIGN CREDIT INSURANCE CORPORATION (FCIA) FOR POLITICAL AND COMMERCIAL RISK RESPECTIVELY.

WE HAVE THE AVAILABILITY OF A DEEP WATER PORT IN RHODE ISLAND AND WE ARE EXPANDING OUR AIR AND OTHER TRANSPORTATION FACILITIES. RHODE ISLAND IS ALSO EXPLORING ESTABLISHMENT OF A FOREIGN TRADE ZONE. COMBINING ALL OF THESE FACTORS WITH OUR IN DEPTH KNOWLEDGE OF THE BUSINESSES IN OUR AREA OF THE COUNTRY WILL ENABLE US THROUGH THE VEHICLE OF AN EXPORT TRADING COMPANY, TO MAKE A VALUABLE CONTRIBUTION TO THE ECONOMY OF THE REGION AND, OF COURSE, RHODE ISLAND.

SUGGESTED CHANGES

WHILE WE FULLY SUPPORT H.R. 6016, INCLUDING THE INCREASE IN THE LIMIT ON ACCEPTANCES IN SECTION 3, WE DO HAVE A FEW SUGGESTIONS ON CERTAIN SPECIFIC POINTS.

FIRST, WE ARE CONCERNED WITH THE USE OF THE WORD "EXCLUSIVELY" IN THE DEFINITION OF AN EXPORT TRADING COMPANY AS A

COMPANY "ORGANIZED AND OPERATED EXCLUSIVELY FOR PURPOSES OF EXPORTING GOODS OR SERVICES." IN KEEPING WITH THE PURPOSES OF THE ACT, CERTAIN LIMITS ON THE ACTIVITIES OF EXPORT TRADING COMPANIES WOULD SEEM NECESSARY. HOWEVER, THE USE OF THE WORD "EXCLUSIVELY" COULD CAUSE SERIOUS PROBLEMS. FOR EXAMPLE, SOME LESSER DEVELOPED COUNTRIES DO NOT HAVE THE NECESSARY FOREIGN EXCHANGE TO PURCHASE U. S. EXPORTS. IN THESE CASES, A TRADING COMPANY COULD PERFORM A VALUABLE SERVICE THROUGH A BARTER, OR COUNTER TRADE, ARRANGEMENT. THERE ALSO, FOR EFFICIENCY'S SAKE, SHOULD BE SOME ABILITY TO IMPORT. FOR EXAMPLE, HOSPITAL TRUST MIGHT CONSIDER A JOINT VENTURE WITH A BANK OR TRADING COMPANY IN ANOTHER COUNTRY TO PROMOTE TRADE AND INVESTMENTS BETWEEN THE TWO COUNTRIES. WE BELIEVE IT IS OF THE UTMOST IMPORTANCE THAT AN EXPORT TRADING COMPANY HAVE THE FLEXIBILITY TO ARRANGE FOR PAYMENT FOR U. S. EXPORTS IN OTHER THAN HARD CURRENCY.

SECOND, IF THE SUBCOMMITTEE WISHES TO APPLY LIMITS TO THE TOTAL OF INVESTMENTS AND EXTENSIONS OF CREDIT FROM A BANK HOLDING COMPANY, BANK OR EDGE, TO ITS TRADING COMPANY SUBSIDIARY, IT SHOULD DO SO DIRECTLY RATHER THAN THROUGH THE APPLICATION OF SECTION 23A OF THE FEDERAL RESERVE ACT. LIMITS, IF ANY, SHOULD SPEAK SPECIFICALLY TO THE TYPE OF TRADE ACTIVITY FINANCING THE BANK WOULD BE LIMITED TO WITH ITS EXPORT TRADING COMPANY, THAT IS LOANS TO COVER THE TRADING ACTIVITY AND/OR MOVEMENT OF GOODS OF THE EXPORT TRADING COMPANY. WE BELIEVE THE ISSUES OF SAFETY AND SOUNDNESS, AND COMMERCE AND BANKING ARE WILL COVERED IN YOUR BILL, H.R. 6016.

THIRD, WE ARE CONCERNED WITH THE GENERAL NATURE OF THE AUTHORITY GIVEN TO THE FEDERAL RESERVE BOARD TO RULE ON APPLICATIONS. THE FACTORS WHICH THE STATUTE REQUIRES THE BOARD TO CONSIDER SEEM APPROPRIATE; BUT THE BOARD SHOULD BE GIVEN SOME AFFIRMATIVE INSTRUCTION TO APPROVE APPLICATIONS IN ORDER TO PROMOTE THE FORMATION OF EXPORT TRADING COMPANIES, GIVING DUE CONSIDERATION TO THESE FACTORS. THE PRESENT LANGUAGE OF THE BILL, GIVEN THE BOARD'S STATED CONCERNS WITH INVESTMENTS IN EXPORT TRADING COMPANIES BY BANKING INSTITUTIONS, COULD RESULT IN GREATER DELAYS AND RESTRICTIONS THAN MIGHT BE INTENDED BY CONGRESS.

FOURTH, THE SUBCOMMITTEE SHOULD CONSIDER ADDING INSURANCE TO THE LIST OF ACTIVITIES INCLUDED IN THE TERM "EXPORT TRADE SERVICES". VARIOUS FORMS OF INSURANCE ARE AN INTEGRAL PART OF THE TRADING PROCESS.

FINALLY, THE LIMIT ON INVESTMENT IN EXPORT TRADING COMPANIES TO 5% OF A HOLDING COMPANY'S CAPITAL AND SURPLUS MAY, IN THE LONG RUN, PROVE OVERLY RESTRICTIVE. THE INCLINATION TO INCLUDE SUCH A LIMIT INITIALLY IS UNDERSTANDABLE, BUT IT MAY, IN THE FUTURE, PREVENT NEEDED GROWTH. PERHAPS SOME FLEXIBILITY COULD BE GIVEN TO THE BOARD TO INCREASE THIS LIMIT OR, AT LEAST, AT A LATER DATE THE SUBCOMMITTEE COULD RECONSIDER THIS ISSUE.

MR. CHAIRMAN, I HOPE THESE SUGGESTIONS ARE HELPFUL TO THE SUBCOMMITTEE. I WOULD BE PLEASED TO ANSWER QUESTIONS.

FERNAND J. ST GERMAIN, R.I., CHAIRMAN
FRANK ANNUNZIO, ILL.
CARROLL HUBBARD, JR., KY.
NORMAN E. D'AMOURS, N.H.
JIM MATTOX, TEX.
JOSEPH G. MINISH, N.J.
DOUG BARNARD, JR., GA.
JOHN J. LAFALCE, N.Y.
DAVID W. EVANS, IND.
MARY ROSE OAKAR, OHIO
BRUCE F. VENTO, MINN.
ROBERT GARCIA, N.Y.
CHARLES E. SCHUMER, N.Y.
BILL PATMAN, TEX.

U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS

CHALMERS P. WYLIE, OHIO
GEORGE HANSEN, IDAHO
JIM LEACH, IOWA
ED BETHUNE, ARK.
STEWART B. MCKINNEY, CONN.
NORMAN D. SHUMWAY, CALIF.
ED WEBER OHIO
BILL MCCOLLUM, FLA.
BILL LOWERY, CALIF.
GEORGE C. WORTLEY, N.Y.

WASHINGTON, D.C. 20515

May 3, 1982

Mr. Alden Anderson, President
Hospital Trust Corporation
One Hospital Trust Plaza
Providence, Rhode Island 02903

Dear Mr. Anderson:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding

company soundness problems. To discourage unhealthy dependence on affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

In addition to any comments on the foregoing summary, which you may care to make, the Subcommitee will appreciate your response to the following questions based upon your testimony:

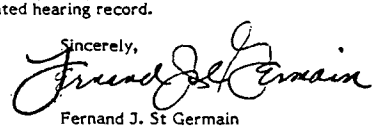
1. You state that the limits on a bank's financial exposure to its ETC subsidiary should not be established through application of Section 23(A) of the Federal Reserve Act. Please explain your rationale taking into consideration the purpose of Section 23(A) and the opportunities a bank owned ETC has to raise funds and borrow money from sources other than its parent? Keep in mind also that the purpose of H.R. 6016 is to provide momentum for stalled export trading company legislation and to provide a basis for the regulation of and monitoring of this most significant breach in our nation's separation of banking from commerce doctrine. The examination and moitoring function will continue to be performed, under the provisions of H.R. 6016, by the Federal Reserve Board until such time as more comprehensve decisions are reached relating to the Glass-Steagall Act.

2. The Subcommittee acknowledges the necessity on occasion for barter arrangements and does understand that the importing of products to be substantially modified for further export can be an essential part of export trading company operations. How do we insure, however, that the primary purpose of the legislation - increased export capability - be maintained?

3. On page 5 of your statement, you state that an export trading company becomes more efficient in exporting if it has the ability to import and engage in third party trading activities. Please furnish specific examples of the type activity to which you are referring with an explanation of ETC improved efficiency as a result thereof.

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,



Fernand J. St Germain
Chairman

Enclosure

HOSPITAL TRUST CORPORATION

May 17, 1982

The Honorable Fernand J. St Germain
Chairman, U.S. House of Representatives
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
B 303 Rayburn House Office Building
Washington, D.C. 20516

Dear Mr. St Germain:

The following comments will respond to those questions posed in your letter of May 3, 1982 based on my testimony to the Subcommittee.

1. I do not believe that the limitations of Section 23(A) of the Federal Reserve Act should be applicable to loans from a bank to its Export Trading Company (ETC) affiliate. ETCs established by regional and small holding companies would not have access to the creditor markets that large bank holding company affiliated ETCs would have. If the intent of this legislation is to promote export trade and this can be accomplished by providing the mechanism for small and medium sized businesses to export, through ETCs, then limiting the ability of ETC subsidiaries of small and medium sized holding companies to borrow from their affiliate banks will inhibit this intent.

   Banks should not and will not have unlimited exposure to affiliated ETCs if the Section 23 (A) limitation is not imposed. There are already substantial regulatory controls and oversight of bank lending practices. ETCs should be able to borrow from affiliated banks on normal terms and conditions subject to prudent lending practices. The precedent of exemption from Section 23 (A) limitations already exists with Edge Act affiliates.

ONE HOSPITAL TRUST PLAZA, PROVIDENCE, RHODE ISLAND 02903

If any restrictions on affiliate lending to ETCs are to be imposed, they would best be left to regulatory guidelines focused on the business realities of export trade, and limitations tailored to the nature of this type of business.

2. It is our belief that the success of the ability to increase export capability is dependent, in great part, on flexible arrangements for payment. That flexibility to import, use counter trade and barter in conjunction with exporting is part of the trade process. As I testified, we could accept a percentage limitation on imports that insured the concept that ETCs should be net exporters. Although I would prefer a 49% limitation, any limitation that was not so onerous as to inhibit the free flow of trade would be acceptable. I believe this would insure the primary purpose of the legislation.

3. An example of improved ETC efficiency by permitting import and third party trading activity is as follows:

   Purchasers of exported goods often do not have the financial capability to pay for exported goods in hard currency but are able to pay with commodities. The exporter does not want those commodities and the ETC is in a position to convert the commodity to dollars by selling it to a third party, either domestic or foreign. Without the ability to operate on both sides of this type of trade transaction the capabilities of an ETC would be impeded severely.

The only additional comment I wish to make concerns the limitation for bank holding company investments to 5% of their capital and surplus. This limitation will be too restrictive for medium and smaller size bank holding companies. Growing ETCs that can carry out the intent of this legislation should not be limited in that growth by the 5% restriction.

I hope this information will be helpful in your deliberations.

Sincerely,

Alden M. Anderson
President

Chairman ST GERMAIN. Thank you, Mr. Anderson. Mr. White, Mr. Taylor, Mr. Anderson, do any of you envision investment by any private investors in these trading companies, other than by the holding company?

Mr. WHITE. You are saying from outside private investors?

Chairman ST GERMAIN. Yes, sir.

Mr. WHITE. We really have not gotten that far yet. We are still studying the dynamics of the trading company business. I think that the most important thing to us is we want to be able to exercise control so that we are not led down paths which we do not want to go for any number of reasons.

Chairman ST GERMAIN. Mr. Taylor?

Mr. TAYLOR. We are still studying the dynamics of this. As we have looked at alternatives for investing in an export trading company, certainly have looked at the joint venture aspects of it and could see a joint venture with an existing export management company or maybe an overseas export manufacturer of some sort or a joint venture with another bank.

So, besides sole ownership we also have been digging around and considering various combinations but no definitive decision.

Mr. ANDERSON. The answer is yes, we have considered it. We believe that if we were to form a joint-owned trading company it would probably be only with another financial institution, frankly for the control and really management reasons.

On the other hand, we believe that an export trading company might subsequently form a number of joint ventures in the specific parts of the world where the company—the products of industries in its own home area that it is trying to increase the exports of are most likely to be sold. We have actually had conversations with certain financial institutions and private concerns in the Latin American area where we already are involved in quite a bit of export trade from the greater Rhode Island area.

So the answer is yes, we see that as a viable way of acquiring, frankly, presence, expanding the expertise that is going to make a trading company a successful thing.

Chairman ST GERMAIN. But by the same token, you are not talking about shares or participation through a partnership where private individuals would be investing funds.

Mr. ANDERSON. I think that would be unlikely at this time. It certainly has not been something—bringing in a partner would be solely to add value to what we are trying to do.

Chairman ST GERMAIN. That partner would be a working partner, rather than just an investor who is purely investing funds?

Mr. ANDERSON. That is correct.

Mr. WHITE. That is right, and I think that on the whole—we are going to have to feel our way into this trading company business. It is going to be an evolutionary advancement, and that is why I think it is important that legislation be loose enough so as to allow a natural phenomenon of growth and expansion, so, it is also not prejudicial against trading companies which have banking equity ownership.

Chairman ST GERMAIN. Mr. Anderson, you did study the dynamics of this, right?

Mr. ANDERSON. Yes, we have.

Mr. BUZZELL. If I might, Mr. Chairman, we are in negotiation with people other than banks, as far as capital sources for an ETC, and with all due respect to my colleagues here on the panel, we found people—the key to the success of an ETC is going to be how well the products that you have are marketed.

What people can bring to the table are marketing skills as well as money, and it does not necessarily follow that only banks can bring that to the table. And besides, it is easier to work with.

Chairman ST GERMAIN. Let me try to understand your answer. Are you saying that indeed, you would envision private investment?

Mr. BUZZELL. Absolutely, and no bank participation. As an alternative, certainly.

Chairman ST GERMAIN. Did you want to be heard on this, Mr. Deegan?

Mr. DEEGAN. No. I will briefly comment that I have discussed this with several banks and most of those I have discussed it with would be sort of taking working members as equity owners rather than the public at large. I have not heard the concept of public ownership.

Chairman ST GERMAIN. Since you have the microphone, Mr. Deegan, would you be good enough to define the word "primarily" for me? In your testimony, you raise the question about changing the word "exclusively" to "primarily."

Mr. DEEGAN. I feel in this particular area the use of the term "exclusively" would legislate against any import at all, and that was my major concern.

Chairman ST GERMAIN. Well, what is your definition of the word "primarily"?

Mr. DEEGAN. In the majority. The major initial purpose of the activity.

Chairman ST GERMAIN. About 51 percent?

Mr. DEEGAN. Sure.

Chairman ST GERMAIN. Mr. Buzzell, would you define primarily for me?

Mr. BUZZELL. Well, I think in my interpretation of the word "primarily" what I was interested in doing was sending a message to the people who actually would be writing the legislation, and I am concerned about the bureaucracy interpreting the word exclusive for an export trading company, and my intent in using the word "primarily" was just to open the door enough to allow some degree—we spent a great deal of time on the task force in trying to arrive at what a reasonable number would be, and the number we picked was 50 percent. That was after a great deal of discussion, negotiation between the various task force members. And we fully recognize the position that we put the committee in in trying to support imports at a time when it is not a very popular political position to take.

However, we felt it was essential for the survival and the viability of the trading company to be able to have some degree, some arbitrary degree. Fifty percent is an arbitrary number that we picked, after much discussion. I would settle for 25 percent. What I would object to is just a hard clamp on the interpretation of the word "exclusive."

Chairman ST GERMAIN. Mr. Anderson, you are next.

Mr. ANDERSON. Yes. I think by definition the term "trade" indicates reciprocity.

Chairman ST GERMAIN. I am asking for a definition of "primarily".

Mr. ANDERSON. OK. Primarily. All right, I will answer you, sir. Primarily, in my mind, indicates that the bulk—and I would use 50 percent; that has been suggested before. It does not particularly concern me; 50 or 25 percent. The intent and the desire and the intelligence of running a trading operation as we envision it would be to allow trade to flow freely and to be able to provide the services that allow our customers in the New England area to be able to export. Fifty percent is fine, if that is satisfactory to you all and to the committee.

I would likewise suggest that anything that says exclusive is limiting to the success of the activity.

Chairman ST GERMAIN. Thank you, gentlemen. Mr. LaFalce.

Mr. LAFALCE. Thank you, Mr. Chairman. I do not have any questions. I want to commend our panelists for the fine presentation. All of you basically support the precepts of the legislation, as you have said, and I think each and every one of you has pointed out some difficulties. I think most of the difficulties are minor ones that the subcommittee can and should handle.

I am troubled with your remarks about the word "exclusively." While I am opposed to the use of the word "exclusively" because I think it is too confining, I think we have to come up with something better, or better than the word "primarily", far better than a 50-50 standard. This is not a trading company act, gentlemen, it is an export trading company act.

We are really not simply interested in having a company that will export 50 percent and import 50 percent. We are interested in boosting exports and if you want to be helpful to us, you will have to do better than come up with the word "primarily", better than come up with 50 percent, because in my judgment, you will have to come up with some alternative to the word "exclusively" that will give the export trading company the leeway to act in an operationally effective manner while still accomplishing the purpose of the legislation, and that is boosting exports.

I do not have a suggestion right now myself. Perhaps we can say it should be engaged in export trading services and other activities that are incidental to export trading services. I do not know, but if you can come up with better ideas, please forward them to us.

Some gentleman—Mr. White apparently has a comment.

Mr. WHITE. I would agree with you on your word incidental, but maybe you would also want to use the word "enhance" because many activities which the trading company can engage in which are not directly related to export, will still enhance a given country's ability to import a U.S. product and supplement or some form like that. But I would agree with the exclusivity problem that we would have, and I agree with the "primarily" problem because of its definition. Why leave it to the regulators to determine what is primary when they have to deal particularly with banks?

And I think it ought to be, again, as broad as possible so that it does not mitigate our export activity.

Chairman ST GERMAIN. The Chair purposely focused on that particular problem that the Chair recognized and is happy to find that his colleague, Mr. LaFalce, who has worked hard in this area, also recognizes the problem. And I would say to the panel that those words are going to be the subject of further testimony and analysis in the subsequent hearings that will be held on the legislation.

So I just thought it important that you be aware of the fact that we are aware that it is an important distinction. We want to be as accurate as possible, as responsive as possible.

Gentlemen, I have a number of questions that I would like to submit to you in writing so that you can answer them with the benefit, in some instances, of your staffs. We would like the answers back in the not-too-distant future. So they will be provided to you expeditiously, and the answers will be helpful as we proceed in consideration of this legislation.

I want to, on behalf of the committee, thank you for your time, for your effort, for the very thorough study you have given us, not only for this hearing but over a long period of time. It is all very beneficial and very helpful, and your testimony has been in each and every instance very productive for the committee.

So thank you one and all. The subcommittee will be in recess until 2 o'clock this afternoon, at which time we will hear from the Secretary of Commerce. And subsequent to his testimony, we will be hearing from another panel of four members.

The subcommittee will be in recess until 2 p.m.

[Whereupon, at 11:45 a.m., the subcommittee recessed for lunch, to reconvene at 2 p.m. the same day.]

Chairman ST GERMAIN. The subcommittee will come to order.

This afternoon, the subcommittee welcomes as our first witness the Secretary of Commerce, Hon. Malcolm Baldrige. I would be remiss indeed if I did not at the outset commend the Secretary for his patience, his persistence on behalf of export trading company legislation.

If memory serves me correctly, Mr. Secretary, your very first appearance after confirmation, or certainly among your first appearances was your testimony before the Senate Banking Committee on export trading company legislation.

Subsequent to that appearance, from our several extended conversations and meetings, I note that you are aware of the concern of this subcommittee over the significant breach of this Nation's separation of banking from commerce policy. Your personal efforts within your Department, within the administration, and in discussions with the Federal Reserve Board, following up on the Chair's suggestions, have raised the level of awareness of these risks to the highest policymaking levels.

As a consequence, and as the legislative process proceeds, it is my belief that in our joint efforts to perfect pending ETC legislation, insofar as bank participation is concerned, with due regard for safety and soundness considerations, we will strengthen the legislation, thereby enhancing its chances of passage and increasing the prospects of the comprehensive bill, achieving the goals of expanded export trading company activity envisioned by its proponents.

Mr. Secretary, your statement was, to be expected, concise and right to the point of the hearings. We will without objection place your full testimony in the record, and when I call on you in a moment you can either read from the text or summarize, whatever your desire might be.

I would ask unanimous consent to put a further statement of my own in the record, so as not to bore the members. Is there objection?

[No response.]

Chairman ST GERMAIN. The Chair hears none. It is done.

[The statement referred to by Chairman St Germain follows.]

STATEMENT BY

FERNAND J. ST GERMAIN, CHAIRMAN

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,

REGULATION AND INSURANCE

ON

H.R. 6016, THE BANK EXPORT SERVICES ACT

APRIL 22, 1982

This morning, the Subcommittee on Financial Institutions began the first of three days of hearings on H.R. 6016, the Bank Export Services Act.

It has now become widely recognized that an active and growing export sector is vital if the national economic well-being is to be maintained and enhanced. Due to the continuing poor and erratic showing of the United States in this area, export stimulation has rightfully at last become an urgent national priority. Bank ownership of export trading companies has been suggested as a viable way to facilitate exports.

Banks can provide services which would make an export trading company function more effectively. Banks can supply the capital necessary to allow export trading companies to experience large economies of scale. The existing international communications and data processing systems and financial expertise of large banks could provide additional benefits for export trading companies.

While bank ownership of export trading companies might boost exports somewhat, it is extremely important to realize that bank ownership will by no means solve our balance of trade problem. The primary causes of our poor export performance are the basic maladies that afflict our economy; years of high inflation, poor productivity, and the current high levels of domestic interest rates and their associated dampening effects on world demand for goods and services.

Additionally, there are pitfalls associated with bank ownership of export trading companies. First, it would substantively breach our longstanding policy of separating commerce and banking. Second, safety and soundness concerns are raised by the prospect of banks owning and operating entities foreign to their traditional areas of expertise which are engaged in a high risk business. The bank regulatory agencies, especially the Federal Reserve Board and the FDIC, have echoed these concerns while questioning their ability to safely control the risks inherent in international trade. These concerns are very important, especially when this legislation is viewed within the context of the current debate on restructuring the financial services industry.

Thus, the primary objective when writing H.R. 6016 was to limit the potential costs of bank ownership while not inhibiting the export stimulus inherent in the concept. The Bank Export Services Act endeavors to accomplish this by insulating the business of banking from the actual operation of the export trading company. This is essentially accomplished by limiting their ownership by depository institutions to Bank Holding Companies and Edge Act Corporations.

Our decision, at this level to limit H.R. 6016 to the bank participation issue allows this Subcommittee to concentrate its attention within its jurisdictional area. Ultimately, as each of the three Committees of jurisdiction conclude their respective deliberations, it is the Chair's hope that we will agree quickly upon the proper procedure to allow remaining differences to be fully debated and resolved by the House.

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Chairman ST GERMAIN. I also ask unanimous consent to place in the record immediately following the testimony of Congressman McKinney a statement in the form of a letter from Congressman Barney Frank, a member of the full committee, a cosponsor of the legislation, and another early supporter of the New England Institute efforts. The letter is provided in view of the fact that Congressman Frank could not be with us today at these hearings. Without objection, it is placed in the record immediately following the testimony of Congressman McKinney this morning.

Mr. Secretary, it is a pleasure to welcome you.

Mr. MCKINNEY. Mr. Chairman, if I could interrupt for just a moment? I think it would be remiss of me not to recognize one of Connecticut's most favored citizens, and welcome to this committee that is now finding out that there are ways to compete with Mitsubishi, Matsui, Sumitomo, and all the rest of them. I am delighted to have Secretary Baldrige here. We are very proud of him.

STATEMENT OF HON. MALCOLM BALDRIGE, SECRETARY OF COMMERCE

Secretary BALDRIGE. Well, that is the nicest thing that has been said about me today, Mr. Congressman.

Thank you, Mr. Chairman. I am pleased to be here to voice the administration's strong support for the legislation which would encourage the creation of export trading companies. This country needs them, and the contribution they can make to the growth of U.S. exports has been established, I believe, in congressional hearings in both the Senate and the House. I would like to just skip parts of the prepared statement, because you have it, but I would like to hit some of the high points.

I think the need for this legislation is paramount during this session. We are clearly entering into a decade of slower worldwide GNP growth, Mr. Chairman. I see as Secretary of Commerce the foreign trading competitors that we have making every possible effort to increase their exports, to help their own GNP's. One out of eight American jobs, about 12½ percent of our GNP comes from exports. We simply have to keep up in this export race for the sake of our own work force and the contribution to the GNP.

Most of the exports now come from the largest U.S. corporations. One percent of the U.S. firms are responsible for 80 percent of our exports. We simply do not have enough medium and smaller sized companies exporting as our trading competitors do in Japan, Germany, and other major European countries. We conducted a survey, Mr. Chairman, in the Department of Commerce's district offices. We asked them to see no more than six banks and ten companies in their district. I will not go into every detail there, but let us say that most of our district offices estimated an increase from these reviews of from 5 to 20 percent.

I am willing to say that the 20 percent is too high. I am willing to take the lowest level of this estimate, but we feel quite sure that a 5-percent increase over 1981 exports would be a valid result of the Export Trading Companies Act. That would mean $11 billion. That would mean, more importantly, some 350,000 additional jobs for our workers.

The key to this expansion in exports lies with the private sector. Export trading company legislation can without additional Federal expenditures give the private sector the tools to do the job of which it is capable, and our foreign competitors have learned how to use export intermediaries such as export trading companies. The most notable success has been with the Japanese, of course, but the Germans, the English, and the French all have them, and it is time, Mr. Chairman, that we learned to do the same.

To be successful, however, export trading company legislation must remove two impediments to the formation of export trading companies. One is the uncertain application of U.S. antitrust laws to cooperative export activities, and the second is restrictions against bank participation. Let me just dwell for a minute on the need for bank participation. Banks can play an essential role in developing successful trading companies. Banks can provide the necessary capital and debt financing which is so critical to the operation of the export trading company.

Their knowledge and experience of trade financing and ancillary services such as foreign exchange; letters of credit, and international documentation, provide an important resource through their foreign branches and correspondent bank relationships, banking organizations are in an excellent position to identify potential foreign markets and customers and other pertinent information. In addition, banks frequently have a communications infrastructure already in place. Through their U.S. offices, banks are able to identify U.S. producers of goods and services that may be competitive overseas and to provide capital to the large number of small and medium sized companies whose products are exportable, but who are not exporting at the present.

Banks are logical candidates to help form export trading companies, and they will enable U.S. trading companies to compete with their foreign counterparts.

Mr. Chairman, H.R. 6016, the Bank Export Services Act, introduced by you—and contained in H.R. 1799—and 1648, would remove one of the two major impediments to the formation of export trading companies. That is the restriction against bank investment. The administration applauds your efforts in this area. H.R. 6016, when joined with the companion title dealing with antitrust certification, will contribute significantly to the expansion of U.S. exports.

I am aware that this legislation would permit banks to be involved in the export sector to a much greater extent than they have been historically. I am also aware of the concern that permitting banking institutions to become involved in these kinds of activities without adequate safeguards could lead to unsafe and unsound banking practices and conflicts of interest. I believe that the approach taken in H.R. 6016 effectively addresses these concerns. This legislation will ensure adequate safeguard for banks, and at the same time create the environment for increasing U.S. exports.

There would be one bank regulatory authority established, the Board of Governors of the Federal Reserve System, with the responsibility to develop the expertise and standards to guide the interaction of banking organizations and ETC's. I agree with you that inconsistent standards resulting from multiple regulatory agency

involvement could be counterproductive. I also understand the concerns of the subcommittee that there be as much separation as possible between a bank's involvement in export trade activities and the deposit taking function of the depository institutions to ensure the financial soundness and integrity of the bank. Under H.R. 6016, the bank would be precluded from participation in an ETC unless it is part of a bank holding company or an Edge Act corporation.

I believe the most important vehicle for achieving separation between a bank's involvement in export trade activities and its deposit taking function is the bank holding company. Reliance on a bank holding company as the exclusive vehicle for investment in an export trading company would permit the use of expertise of bank managements concerning foreign markets while insulating the bank from loss. Separating the export trading company from the bank by use of the subsidiary of a bank holding company would mean that any losses of the ETC would not affect the safety or soundness of the bank itself.

Nevertheless, I would not like to see all banks precluded from participating in export trading companies merely because they are not under a bank holding company, and do not want to form one. I believe that many regional and small banks situated throughout the country, even though they are not bank holding companies, can play a very important role in the success of export trading companies. These regional and small banks have local contacts with a broad range of small and medium sized business firms, and they can play a pivotal role in encouraging these companies to form export trading companies and in identifying those products which would be competitive overseas.

Some of those banks have international experience, and would be competent to participate in export trading companies, and some of the banks which lack international trade experience would be able to provide needed capital to entrepreneurs which have the necessary international trade experience. Therefore, I recommend, Mr. Chairman, that you permit banks which have assets of less than $300 million and which are not part of a bank holding company to establish export subsidiary corporations for the purpose of investing in export trading companies subject to the approval of the bank regulatory agency.

I would like to bring another issue to your attention. The Bank Export Services Act defines an export trading company as a company organized and operated exclusively for purposes of exporting goods or services or facilitating their export. To be competitive, export trading companies will have to engage in countertrade, and trade between other nations. A requirement that these trading companies be exclusively engaged in exporting would, I fear, limit their ability to compete effectively. Amending this provision to require that an ETC be principally engaged in export activities or exclusively engaged in international trade activities would resolve this problem.

Finally, Mr. Chairman, I would note that to be most effective, an ETC would have to take title to goods. Legislation passed by the Senate contains an explicit statement about taking title. H.R. 6016 does not contain explicit language authorizing an ETC to take title

to goods. While I believe that as drafted, H.R. 6016 does contemplate that an ETC would be able to take title to goods, the existence of this authority should be clarified in the legislative history.

In conclusion, Mr. Chairman, the administration strongly supports passage of export trading company legislation, and believes that H.R. 6016 would provide a major contribution to the improvement of our export performance. We recognize that the issue of bank participation in commerce is not an easy one for the members of this subcommittee. I believe you have addressed the issue in a positive and forthright manner, and my staff and I are prepared to work with you in any way we can.

I thank you for your efforts in this important matter. I would be pleased to answer any questions you might have, Mr. Chairman.

[The prepared statement of Secretary Baldrige follows:]

STATEMENT OF

THE HONORABLE MALCOLM BALDRIGE

SECRETARY OF COMMERCE

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,

REGULATION AND INSURANCE

COMMITTEE ON BANKING, FINANCE AND

URBAN AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

APRIL 22, 1982

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I AM PLEASED TO BE HERE TO VOICE THE ADMINISTRATION'S STRONG SUPPORT FOR LEGISLATION WHICH WOULD ENCOURAGE THE CREATION OF PRIVATE EXPORT TRADING COMPANIES.

THIS COUNTRY NEEDS EXPORT TRADING COMPANIES. THE CONTRIBUTION THESE COMPANIES CAN MAKE TO THE GROWTH OF U.S. EXPORTS HAS BEEN ESTABLISHED IN CONGRESSIONAL HEARINGS IN BOTH THE SENATE AND THE HOUSE.

BEFORE TURNING SPECIFICALLY TO THE ISSUE BEING CONSIDERED BY THIS COMMITTEE - BANK PARTICIPATION IN AN ETC - I WOULD LIKE TO DESCRIBE FOR YOU HOW THE EXPORT TRADING COMPANY LEGISLATION CAN CREATE JOBS AND HELP THE UNITED STATES IMPROVE ITS PERFORMANCE IN THE INTERNATIONAL TRADE AREA.

THE NEED FOR EXPORT TRADING COMPANY LEGISLATION

EXPORTS PLAY A VITAL ROLE IN THE U.S. ECONOMY. THEY PAY FOR OUR IMPORTS. THEY PRESERVE AND CREATE JOBS. ONE JOB OUT OF EVERY EIGHT IN OUR MANUFACTURING SECTOR AND ONE JOB OUT OF EVERY THREE IN OUR AGRICULTURAL SECTOR ARE RELATED TO EXPORTS. IN 1980, THE DEPARTMENT OF COMMERCE ESTIMATED THAT EACH BILLION DOLLARS IN MANUFACTURED EXPORTS SUPPORTS APPROXIMATELY 32,000 JOBS.

A HEALTHY AND GROWING U.S. EXPORT SECTOR IS ESSENTIAL TO A STRONG U.S. ECONOMY. YET, OVER THE LAST TWO DECADES, THERE HAS BEEN A STEADY EROSION IN THE U.S. SHARE OF WORLD TRADE. IN 1960 OUR SHARE OF WORLD TRADE IN MANUFACTURED GOODS WAS 25 PERCENT. BY 1980 IT HAD DECLINED TO 18 PERCENT. SINCE 1975, THE UNITED STATES HAS HAD A CUMULATIVE MERCHANDISE TRADE DEFICIT OF APPROXIMATELY $150 BILLION (F.A.S. BASIS). AT THE

SAME TIME, U.S. COMPANIES HAVE LOST A SIGNIFICANT SHARE OF THE DOMESTIC U.S. MARKET TO IMPORTS, AND THE GROWTH OF U.S. PRODUCTIVITY IN MANUFACTURING HAS LAGGED BEHIND THAT OF OUR COMPETITORS.

WHAT MAKES THESE STATISTICS EVEN MORE OMINOUS IS THE PREDICTED SLOW GROWTH IN THE WORLD ECONOMY OVER THE NEXT DECADE. THIS MEANS THAT MANY COUNTRIES WILL WANT TO EXPAND EXPORTS--AND WILL BE RELUCTANT TO ACCEPT IMPORTS--IN THE YEARS AHEAD. IT MEANS THAT INTERNATIONAL COMPETITION IS GOING TO GET TOUGHER THAN EVER BEFORE. NOT ONLY WILL THERE BE LESS GROWTH, THERE WILL BE MORE NATIONS STRUGGLING TO PAY FOR RAW MATERIALS AND ENERGY THROUGH EXPORT SALES.

IF WE ARE TO MAINTAIN OUR STANDARD OF LIVING WE MUST EXPAND OUR EXPORTS. WE MUST COMPETE ABROAD MORE AGGRESSIVELY THAN EVER BEFORE.

CURRENTLY, MOST U.S. EXPORTS COME FROM THE LARGEST U.S. CORPORATIONS. ONE PERCENT OF U.S. FIRMS ARE RESPONSIBLE FOR 80 PERCENT OF OUR EXPORTS. TENS OF THOUSANDS OF U.S. BUSINESSES PRODUCE GOODS AND SERVICES WHICH COULD BE SUCCESSFULLY EXPORTED, BUT PRESENTLY ARE NOT. MANY MORE FIRMS HAVE THE CAPACITY TO MAKE THEIR GOODS OR SERVICES

COMPETITIVE FOR EXPORT, BUT DO NOT HAVE AN EXPORT CONSCIOUSNESS OR THE CAPABILITY TO EXPLORE THE POTENTIAL OF FOREIGN MARKETS.

EXPORT TRADING COMPANY LEGISLATION IS AN IMPORTANT STEP IN MOBILIZING OUR UNTAPPED EXPORT RESOURCES. THE RISKS AND COSTS INVOLVED IN MARKETING PRODUCTS OVERSEAS, COUPLED WITH A LACK OF KNOWLEDGE OF FOREIGN MARKETS AND OF THE CULTURAL COMPLEXITIES OF AN UNFAMILIAR SOCIETY DETER SMALL AND EVEN MEDIUM SIZED COMPANIES FROM ATTEMPTING TO EXPORT THEIR GOODS. THE EXISTENCE OF ETC'S WHO SPECIALIZE IN EXPORTING, WHO CAN ASSUME THE RISKS, WHO HAVE THE FINANCIAL CAPABILITY AND THE LEGAL AND TECHNICAL EXPERTISE TO PENETRATE FOREIGN MARKETS WILL PERMIT THESE SMALL AND MEDIUM SIZED FIRMS TO IMPROVE GREATLY THEIR EXPORT PERFORMANCE.

THIS DEPARTMENT'S DISTRICT EXPORT OFFICES RECENTLY CONDUCTED AN INFORMAL SURVEY CONCERNING THE POSSIBLE EFFECTS OF EXPORT TRADING COMPANIES ON U.S. EXPORTS. WHILE SUCH EFFECTS ARE DIFFICULT TO QUANTIFY, FOUR OF OUR DISTRICT OFFICES ESTIMATED AN INCREASE IN EXPORTS FROM FIVE TO TWENTY PERCENT. IF WE TAKE THE LOWEST LEVEL OF THIS ESTIMATE, A FIVE PERCENT INCREASE OVER 1981 EXPORTS, THE RESULT WOULD BE AN INCREASE

IN EXPORTS OF $11 BILLION. THIS COULD TRANSLATE INTO 350,000 ADDITIONAL JOBS.

MR. CHAIRMAN, THE KEY TO EXPANDING OUR EXPORTS LIES WITH THE PRIVATE SECTOR. EXPORT TRADING COMPANY LEGISLATION CAN, WITHOUT ANY ADDITIONAL FEDERAL EXPENDITURES, GIVE THE PRIVATE SECTOR THE TOOLS TO DO THE JOB OF WHICH IT IS CAPABLE.

OUR FOREIGN COMPETITORS HAVE LEARNED HOW TO USE EXPORT INTERMEDIARIES SUCH AS EXPORT TRADING COMPANIES. IT IS TIME THAT WE LEARN TO DO THE SAME.

TO BE SUCCESSFUL, EXPORT TRADING COMPANY LEGISLATION MUST REMOVE TWO IMPEDIMENTS TO THE FORMATION OF EXPORT TRADING COMPANIES--THE UNCERTAIN APPLICATION OF U.S. ANTITRUST LAWS TO COOPERATIVE EXPORT ACTIVITIES; AND RESTRICTIONS AGAINST BANK PARTICIPATION.

EXPORT TRADING COMPANY LEGISLATION MUST PROVIDE EXPORTERS SUBSTANTIALLY GREATER ASSURANCES THAN THEY NOW HAVE THAT CERTAIN JOINT EXPORT ACTIVITIES WOULD BE PERMISSIBLE UNDER U.S. ANTITRUST LAWS. A PRE-CLEARANCE PROCEDURE THAT SCRUTINIZES THE ANTICOMPETITIVE EFFECTS OF PROPOSED COOPERATIVE EXPORT ACTIVITIES BEFORE ISSUANCE OF A CERTIFICATE, AND THAT PRECLUDES ANTITRUST LITIGATION AGAINST CERTIFIED ACTIVITIES

WOULD ENCOURAGE U.S. COMPANIES TO COOPERATE IN THEIR JOINT EXPORT ACTIVITIES. AT THE SAME TIME, SUCH A PROCEDURE WOULD IN NO WAY DILUTE THE VIGILANT APPLICATION OF THE U.S. ANTI-TRUST LAWS AND THEIR PROTECTION OF THE U.S. ECONOMY.

THE NEED FOR BANK PARTICIPATION

BANKS CAN PLAY AN ESSENTIAL ROLE IN DEVELOPING SUCCESSFUL TRADING COMPANIES. BANKS CAN PROVIDE THE NECESSARY CAPITAL AND DEBT FINANCING WHICH IS SO CRITICAL TO THE OPERATION OF AN EXPORT TRADING COMPANY. THEIR KNOWLEDGE AND EXPERIENCE IN TRADE FINANCING AND ANCILLARY SERVICES SUCH AS FOREIGN EXCHANGE, LETTERS OF CREDIT, AND INTERNATIONAL DOCUMENTATION PROVIDE AN IMPORTANT RESOURCE. THROUGH THEIR FOREIGN BRANCHES AND CORRESPONDENT BANK RELATIONSHIPS, BANKING ORGANIZATIONS ARE IN AN EXCELLENT POSITION TO IDENTIFY POTENTIAL FOREIGN MARKETS AND CUSTOMERS, AND OTHER PERTINENT INFORMATION. BANKS FREQUENTLY HAVE A COMMUNICATIONS INFRASTRUCTURE ALREADY IN PLACE.

THROUGH THEIR U.S. OFFICES, BANKS ARE ABLE TO IDENTIFY U.S. PRODUCERS OF GOODS AND SERVICES THAT MAY BE COMPETITIVE OVERSEAS, AND TO PROVIDE CAPITAL TO LARGE NUMBERS OF SMALL AND MEDIUM-SIZED COMPANIES WHOSE PRODUCTS ARE EXPORTABLE.

IN SUMMARY, MR. CHAIRMAN, BANKS ARE LOGICAL CANDIDATES TO HELP FORM EXPORT TRADING COMPANIES. MOREOVER, BANK OWNERSHIP SHOULD BETTER ENABLE U.S. TRADING COMPANIES TO COMPETE WITH THEIR FOREIGN COUNTERPARTS. FOREIGN TRADING COMPANIES ARE OFTEN LINKED THROUGH STOCK OWNERSHIP OR GOVERNMENT CONTROL WITH FOREIGN BANKING ORGANIZATIONS. PARTICIPATION BY U.S. BANKS IN DEVELOPING EXPORT TRADING COMPANIES SHOULD HELP COUNTERACT THE ADVANTAGES NOW HELD BY FOREIGN TRADING COMPANIES.

CURRENT LEGISLATIVE PROPOSAL

MR. CHAIRMAN, H.R. 6016, THE BANK EXPORT SERVICES ACT, INTRODUCED BY YOU (AND CONTAINED IN H.R. 1799), AND H.R. 1648 WOULD REMOVE ONE OF THE TWO MAJOR IMPEDIMENTS TO THE FORMATION OF EXPORT TRADING COMPANIES--THE RESTRICTION AGAINST BANK INVESTMENT. THE ADMINISTRATION APPLAUDS YOUR EFFORTS IN THIS AREA. H.R. 6016, WHEN JOINED WITH A COMPANION TITLE DEALING WITH ANTITRUST CERTIFICATION, WILL CONTRIBUTE SIGNIFICANTLY TO THE EXPANSION OF U.S. EXPORTS.

I AM AWARE THAT THIS LEGISLATION WOULD PERMIT BANKS TO BE INVOLVED IN THE EXPORT SECTOR TO A MUCH GREATER EXTENT THAN THEY HAVE BEEN HISTORICALLY. I AM AWARE OF THE CONCERN THAT PERMITTING BANKING INSTITUTIONS TO BECOME INVOLVED IN THESE

KINDS OF ACTIVITIES WITHOUT ADEQUATE SAFEGUARDS COULD LEAD TO UNSAFE AND UNSOUND BANKING PRACTICES, AND CONFLICTS OF INTEREST.

I BELIEVE THAT THE APPROACH TAKEN IN H.R. 6016 EFFECTIVELY ADDRESSES THESE CONCERNS. THIS LEGISLATION WILL ENSURE ADEQUATE SAFEGUARDS FOR BANKS AND, AT THE SAME TIME, CREATE THE ENVIRONMENT FOR INCREASING U.S. EXPORTS. H.R. 6016 WOULD ESTABLISH ONE BANK REGULATORY AUTHORITY, THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, WITH THE RESPONSIBILITY TO DEVELOP THE EXPERTISE AND STANDARDS TO GUIDE THE INTERACTION OF BANKING ORGANIZATIONS AND ETCS. I AGREE WITH YOU THAT INCONSISTENT STANDARDS RESULTING FROM MULTIPLE REGULATORY AGENCY INVOLVEMENT COULD BE COUNTER-PRODUCTIVE.

I ALSO UNDERSTAND THE CONCERNS OF THE SUBCOMMITTEE THAT THERE BE AS MUCH SEPARATION AS POSSIBLE BETWEEN A BANK'S INVOLVEMENT IN EXPORT TRADE ACTIVITIES AND THE DEPOSIT TAKING FUNCTIONS OF THE DEPOSITORY INSTITUTIONS TO ENSURE THE FINANCIAL SOUNDNESS AND INTEGRITY OF THE BANK. UNDER H.R. 6016, A BANK WOULD BE PRECLUDED FROM PARTICIPATION IN AN ETC UNLESS IT IS PART OF A BANK HOLDING COMPANY OR AN EDGE ACT CORPORATION. I BELIEVE THE MOST APPROPRIATE VEHICLE FOR ACHIEVING SEPARATION BETWEEN A BANK'S INVOLVEMENT IN EXPORT TRADE ACTIVITIES AND ITS DEPOSIT TAKING FUNCTIONS IS THE BANK HOLDING COMPANY.

RELIANCE ON THE BANK HOLDING COMPANY AS THE EXCLUSIVE VEHICLE FOR INVESTMENT IN EXPORT TRADING COMPANIES WOULD PERMIT THE USE OF THE EXPERTISE OF BANK MANAGEMENTS CONCERNING FOREIGN MARKETS WHILE INSULATING THE BANK FROM LOSS. SEPARATING THE EXPORT TRADING COMPANY FROM THE BANK BY USE OF THE SUBSIDIARY OF A BANK HOLDING COMPANY WOULD MEAN THAT ANY LOSSES OF THE ETC WOULD NOT AFFECT THE SAFETY OR SOUNDNESS OF THE BANK ITSELF.

NEVERTHELESS, I WOULD NOT LIKE TO SEE ALL BANKS PRECLUDED FROM PARTICIPATING IN EXPORT TRADING COMPANIES MERELY BECAUSE THEY ARE NOT UNDER A BANK HOLDING COMPANY, AND DO NOT WANT TO FORM ONE. I BELIEVE THAT MANY REGIONAL AND SMALL BANKS SITUATED THROUGHOUT THE COUNTRY, THOUGH THEY ARE NOT BANK HOLDING COMPANIES, CAN PLAY A VERY IMPORTANT ROLE IN THE SUCCESS OF EXPORT TRADING COMPANIES. THESE REGIONAL AND SMALL BANKS HAVE LOCAL CONTACTS WITH A BROAD RANGE OF SMALL AND MEDIUM-SIZED BUSINESS FIRMS. THESE BANKS CAN PLAY A PIVOTAL ROLE IN ENCOURAGING THESE COMPANIES TO FORM EXPORT TRADING COMPANIES AND IN IDENTIFYING THOSE PRODUCTS THAT WOULD BE COMPETITIVE OVERSEAS. SOME OF THESE BANKS HAVE INTERNATIONAL EXPERIENCE AND WOULD BE COMPETENT TO PARTICIPATE IN AN EXPORT TRADING COMPANY. SOME OF THESE BANKS WHICH LACK INTERNATIONAL TRADE EXPERIENCE WOULD BE ABLE TO PROVIDE NEEDED CAPITAL TO ENTREPRENEURS WHICH HAVE THE

NECESSARY INTERNATIONAL TRADE EXPERIENCE.

THEREFORE I RECOMMEND THAT YOU PERMIT BANKS WHICH HAVE ASSETS OF LESS THAN $300 MILLION AND WHICH ARE NOT PART OF A BANK HOLDING COMPANY TO ESTABLISH EXPORT SUBSIDIARY CORPORATIONS FOR THE PROPOSE OF INVESTING IN EXPORT TRADING COMPANIES, SUBJECT TO THE APPROVAL OF THE BANK REGULATORY AGENCY.

I WOULD LIKE TO BRING ANOTHER ISSUE TO YOUR ATTENTION. THE BANK EXPORT SERVICES ACT DEFINES AN EXPORT TRADING COMPANY AS A COMPANY ORGANIZED AND OPERATED "EXCLUSIVELY" FOR PURPOSES OF EXPORTING GOODS OR SERVICES OR FACILITATING THEIR EXPORT. TO BE COMPETITIVE, EXPORT TRADING COMPANIES WILL HAVE TO ENGAGE IN COUNTERTRADE, AND TRADE BETWEEN OTHER NATIONS. THE REQUIREMENT THAT THESE TRADING COMPANIES BE EXCLUSIVELY ENGAGED IN EXPORTING WOULD, I FEAR, LIMIT THEIR ABILITY TO COMPETE EFFECTIVELY. AMENDING THIS PROVISION TO REQUIRE THAT AN ETC BE "PRINCIPALLY" ENGAGED IN EXPORT ACTIVITIES, OR EXCLUSIVELY ENGAGED IN INTERNATIONAL TRADE ACTIVITIES WOULD RESOLVE THIS PROBLEM.

FINALLY, MR. CHAIRMAN, I WOULD NOTE THAT, TO BE MOST EFFECTIVE, AN ETC WILL HAVE TO TAKE TITLE TO GOODS. THE LEGISLATION PASSED BY THE SENATE, S. 734, CONTAINS AN EXPLICIT STATEMENT ABOUT TAKING TITLE. H.R. 6016 DOES NOT CONTAIN EXPLICIT

LANGUAGE AUTHORIZING AN ETC TO TAKE TITLE TO GOODS. WHILE I BELIEVE THAT H.R. 6016 AS DRAFTED DOES CONTEMPLATE THAT AN ETC WILL BE ABLE TO TAKE TITLE TO GOODS, THE EXISTENCE OF THIS AUTHORITY SHOULD BE CLARIFIED IN THE LEGISLATIVE HISTORY.

CONCLUSION

IN CONCLUSION, MR. CHAIRMAN, THE ADMINISTRATION STRONGLY SUPPORTS PASSAGE OF EXPORT TRADING COMPANY LEGISLATION AND BELIEVES THAT H.R 6016 WOULD PROVIDE A MAJOR CONTRIBUTION TO THE IMPROVEMENT OF OUR EXPORT PERFORMANCE. WE RECOGNIZE THAT THE ISSUE OF BANK PARTICIPATION IN COMMERCE IS NOT AN EASY ONE FOR THE MEMBERS OF THIS SUBCOMMITTEE. I BELIEVE THAT YOU HAVE ADDRESSED THE ISSUE IN A POSITIVE AND FORTHRIGHT MATTER. MY STAFF AND I ARE PREPARED TO WORK WITH YOU IN ANY WAY THAT WE CAN. I THANK YOU FOR YOUR EFFORTS IN THIS IMPORTANT MATTER.

THIS CONCLUDES MY PREPARED STATEMENT. I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

Chairman ST GERMAIN. Thank you, Mr. Secretary.

With respect to the taking title to goods situation, I think I might classify that in the same category as the problem we have with the words "exclusive" and "primarily exclusively" and "primarily," to wit, that they require more study, but I would ask you this: Do you want to see a situation where you have warehousing as a means of cornering the market on a specific category. I think that we have to be concerned with that. Do you not agree?

Secretary BALDRIGE. Well, it is like most other standard business problems, I believe, Mr. Chairman. It depends on what kind of warehousing, where it is, and so forth. For example, if you were selling either machine tools or even smaller products abroad, you may have to have an inventory of some kind over there to be able to serve the market, and if the ETC took title to those goods, they would look on that as a normal business expense. They would put that in their projections, get paid for whatever the cost of keeping them was, the cost of keeping an inventory, but without allowing ETC's to take title to goods, we could get in a situation where everything would have to be shipped direct from the factory to some place in France or Japan, and that gets very unwieldy.

Chairman ST GERMAIN. If I may interrupt, in the Senate version, S. 734, am I not correct that the export trading company is required to give the Federal Reserve Board prior written notice before taking title to goods?

Secretary BALDRIGE. Oh, yes. My counsel, Mr. Unger, tells me they get approval to take title. They do not have to give prior notice.

Chairman ST GERMAIN. Well, in order to get approval, they have to give notice.

Mr. UNGER. It is not a specific approval, Mr. Chairman. It is an approval to take title, but not for a specific item.

Chairman ST GERMAIN. A blanket approval. In other words, to use an example that was given this morning, you are exporting furniture kits, and you want to send x number to Spain, x number to Germany, because you think that the spring season, after spring cleaning, they will find they need some new furniture. Is that correct?

Mr. UNGER. Yes.

Chairman ST GERMAIN. If that export company has a client who is engaged in that type business, they would be given a blanket approval that said you can take title to goods because of the type of exporting that you are engaged in.

Mr. UNGER. I am advised that my answer is, the regulatory agency would give approval for classes of goods but not specific items.

Chairman ST GERMAIN. All right. Now, Mr. Secretary, you state that banks that do not form ETC's will probably provide capital to entrepreneurs that have international trading experience. I assume existing ETC's would fit into this category, and that being the case, this legislation really would not be the incentive for them to do this, would it? I mean, if they were prone to do it, wouldn't they be doing it already?

Secretary BALDRIGE. Well, we are doing it now, Mr. Chairman, but we are not doing it nearly enough. We are missing too many

opportunities. There are banks that supply entrepreneurs with financing now for exporting, but mostly they are the larger companies. As I have stated, 1 percent of our companies do 80 percent of our exports. The undeniable fact is that our trading competitors have this advantage over our companies now. The last figures we have are perhaps 6 or 8 years old, but as I remember, the largest Japanese companies, the largest 450, which would equal our Fortune 500 in Japan, have a third of their financing supplied by their export trading companies. That is the kind of competition we are facing, and our medium and smaller sized companies, particularly those without experience in exporting, simply will not get the push they need unless we have this kind of a bill.

Yes, and I think that is a good point we were just discussing. The antitrust portion or the certificate of exemption against antitrust allows the small companies to get together now without fear of antitrust violation for concerted action abroad, which again our competitors can now do.

Chairman ST GERMAIN. Mr. McKinney.

Mr. MCKINNEY. Thank you, Mr. Chairman.

Mr. Secretary, there is a clause in the bill that does not allow the export trading company to carry the same name as the bank, and I have some difficulty with that. Wouldn't you think the Congress of the United States, either in the record or on the floor, during the floor proceedings, can instruct the regulatory agency that this does not mean that the bank management cannot sell their export trading company as an entity. I have a fear that the regulatory agencies may say, well, the law says you cannot carry the same name, therefore the officers cannot sell the product.

Would you not agree that we should make it very clear that even though they cannot carry the same name, that the officer of the bank should be able to sell the product?

Secretary BALDRIGE. Well, I would go a step further, Congressman. I see no reason not to let them keep the same name. I am supporting this bill, and I know it does have some strictures there in it in that regard, but let me give you this background. We are going to have to be more of an exporting Nation than we are now if we are going to keep up in the competitive race I see ahead. I do not think there are any two ways about it.

Our people as a nation are going to have to learn how to export more. Now, there is no reason in the world why it should not be as safe to export to some of the markets we see abroad as it is to sell to farmers. You can say that farmers have a tough cyclical problem, and that therefore banks should not make loans to people in the agricultural business as a result of that. At some point in history, you will probably be right, but the same thing with export trading companies. I do not think we should look on this as something, you know, from outer space. It should be an integral part of the commerce of the United States, and there is not a reason in the world why exporting is not as safe or safer as any business conducted solely inside the limits of the United States, and unless we learn to live that way, we are going to fall behind.

Therefore, I can see name recognition resulting in more business for U.S. banks. But I will say this to you and to the chairman, I do not think it is an important enough point for me to say that I

would not support the bill because it is in there one way or the other. These are my personal thoughts on it.

Mr. McKINNEY. So we could make perfectly clear if this provision stays in the bill that this does not prohibit bank officers from promoting the export trading company.

Secretary BALDRIGE. I think everybody should promote it, including the President of the United States, all cabinet officers, Senators, and Congressmen, so why not bank officials? [General laughter.]

Mr. McKINNEY. Spoken like a true Connecticut yankee. [General laughter.]

I will tell you something, Mr. Secretary. I listened to the chairman of the board of the Chrysler Corp. this morning. The automobile industry in this country will sell an abysmal, 8.3 million cars this year, despite the longest outrun of older cars in the history of the United States since the forties. Yet of that 8.3 million, 2.3 million will be German, Japanese, and foreign, and we are in a desperate fight for survival, so I could not agree with you more.

I was interested in your comment on changing the wording from "sole" business to "principal." I understand that swap trade, as some name it, is the way international trade is done these days. You give me your television sets, I will give you my wheat, and so on and so forth, so you would like us to make that a little looser, just so long as we know that the export trading company was in the major business of promoting exports. Is that correct?

Secretary BALDRIGE. Exactly. In the Senate passed bill, S. 734, it does contain the word "principally" in its definition of ETC, and the Senate report defines this to mean at least one-half the company's total business will be directly related to the exports of U.S. goods and services produced in the United States, but we suggest "principally" rather than "exclusively" because of the need for an ETC to have some flexibility. There is no, or very little, one-way trade in the world. Two-way trade is almost a necessity.

Some of this trade may result in imports. Some of it may be countertrade. Some of it may be simply third party international trade, wholly outside U.S. commerce. That is the way the Japanese, the Germans, the French, the English do it. I see no reason to tie our hands, because there are some definite advantages in that.

Now, we may not like countertrade in some areas, but it is necessary and it is profitable. I have seen it done often, and there are many countries that will not trade without it.

Mr. McKINNEY. Mr. Secretary, I am not one that believes the Japanese model fits the United States, but I do believe we exist in the same free trade world, and we had better get as smart as they have gotten over the last 10 years.

One other restriction in the bill that we have considered is the 5-percent asset limit I wondered if perhaps the bill would be more workable if we had a 5-percent ownership limitation combined with a 5-percent loan ratio, if that would perhaps make it, since most of the export trading companies in the world, as you suggested, have a 30-percent factor or 25-percent factor. Would a 5-percent loan addition help the whole structure of the process?

Secretary BALDRIGE. I believe it would, Mr. Congressman. That was in the Senate bill, and I see no compelling reason to leave it

out of this bill. If we believe that exporting is going to provide jobs, and it is a necessity for us to grow in that area, and we are trying to help our medium and smaller sized businesses to export, then we need banks to be able to take an equity position That, as has been pointed out before, I think, establishes a base. If their equity base is too small, you simply cannot export enough, and it is the same with the ability of the ETC to get loans.

Mr. McKINNEY. That was my fear.

Secretary BALDRIGE. So I would be in favor of that.

Mr. McKINNEY. Mr. Secretary, I really want to thank you. The chairman and I and the New England Congressional Caucus have looked closely at the export situation. One of the healthiest signs in the chairman's State of Rhode Island and in my State of Connecticut in a rather dismal and bleak economy is our increase in export sales. Export in Rhode Island, Massachusetts, and even Vermont, which I found amazing, have grown by 10 percent, I believe, in the last 10 years. New England leads the entire Nation, and we appreciate your testimony. I appreciate your dedication to the subject. I know we will one way or the other work our will and go out and beat the trading completion.

Thank you very much.

Secretary BALDRIGE. Thank you.

Chairman ST GERMAIN. Mr. LaFalce.

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

Mr. Secretary, first of all, I want to commend you on your fine presentation, but also I want to thank you very much, too, for picking up the export trading company bill and pushing it and promoting it so aggressively. It was an initiative in 1980, passed the Senate then, did not get as aggressive support as that administration hoped for, as I certainly would have hoped for, but then your administration came in, and you have been pushing it most aggressively ever since.

I am especially personally grateful for your strong support of H.R. 1648, in testifying on its behalf before so many different committees. Certainly without your enthusiastic support we would not be here this afternoon.

I do have a few questions, though. I am able to support this compromise because I think it accomplishes almost all the objectives that we had in mind in H.R. 1648, but I am concerned about a few things. Let me pass over the subject of banks versus bank holding companies. Let me focus in on the name of the institution. I was glad you said what you said, that you see no reason why there should not be the name of the institution permitted in the export trading company, but it seemed to me as I was following my good friend, Mr. McKinney's questioning of you that he was almost fishing for a response that it would be adequate to simply say to the officials of the banks, "Well, it will be OK to promote it even though the name is not the same." I would like to clarify this, naturally, you are not going to oppose the legislation simply because it would not permit it.

Mr. McKINNEY. A point of clarification. I was simply saying that when you say they cannot use the same name, I know that some regulator downtown is going to say, therefore, the same officers cannot promote it. I would prefer the same name, too, but I just

think we need to keep saying once again after this body works its will that that does not mean the chairman of the bank and the president of the bank cannot sell the product just because they cannot have the same name.

Mr. LAFALCE. My point is that if we are going to do something, let us be bold about it. I do not think we could be accused of being too bold if we permit the bank holding company to use its name.

Secretary BALDRIGE. I do not want to say, in for a dime, in for a dollar, because that would scare everybody and not apply here necessarily, but if we are going to allow it to be done, why not do it right? Why not have the name?

Mr. LAFALCE. Especially since the very reason is not just the financial, the equity, it is the good will that has been built up. The existing network of services that exists in virtually every major city in the world by our BHC's, which network is very closely identified with the name. I think we would be undercutting our purposes tremendously if we did not permit the use of the name.

Secretary BALDRIGE. I agree with you, Mr. Congressman. It is the way other countries do it. I do not see any reason not to do it.

Mr. LAFALCE. One further issue, as long as I can get into one other issue——

Chairman ST GERMAIN. Will you yield?

Mr. LAFALCE. As long as——

Chairman ST GERMAIN. No time limits.

I am not in concrete on this question of the name. By the same token, am I not mistaken, is the Gotham Mammoth National Bank Trading Co., selling the Gotham National Bank or are they selling widgets, tins, and trogel-bogels?

As far as the name is concerned for selling the product, that is not what sells the product? It is the product that is sold.

Mr. LAFALCE. I might buy a GE because it is a GE as opposed to Gotham.

Chairman ST GERMAIN. That is right, that is right. You are absolutely correct, Mr. LaFalce.

I am not in concrete on this, but let me ask the Secretary this. You know, as far as in for a dime, in for a dollar, et cetera, et cetera, the point is that the item being exported is that which is being sold. You are not selling the name of the export trading company. That does not sell the product. It is the expertise of that company that sells the product.

So I do not think we should look upon this prohibition. As I say, I am open to discussion on this. But that is not what is going to sell the export. It is the expertise in that export trading company, and it is also the quality of the product that is going to sell. It is not the name of the export trading company. It is the quality of the product. The name of the product, yes, General Electric, General Motors.

Mr. LAFALCE. Mr. Chairman, I understand exactly what you are saying. But by the same token, I think that a great many members of this committee might be more disposed to support a bill because it carried the name St Germain than if it carried any other name. [Laughter.]

I do think it makes quite a bit of difference. [Laughter.]

Would you care to respond? [Laughter.]

Chairman ST GERMAIN. Your time has not expired. [Laughter.]

Mr. LAFALCE. Let me go on to my next question, Mr. Secretary. You know, we both agree on one issue and that is the name of the game is boosting exports. And yet, while that is your purpose and that is my purpose, to the extent that bank holding companies can assist us in achieving that purpose, we want to use them but we do not want anybody to use us.

And therefore, there is a legitimate point in objecting to the use of the word "exclusively," because there are so many other things that must be done incidental to exports that we do not want to unnecessarily put them in a straightjacket. We do not want a wash. We do not want 50 percent exports, 50 percent imports. We want to improve our balance-of-trade payments.

And export trading companies, if they are to live up to their name, will have to be overwhelmingly engaged in exports. Now, you—earlier this morning somebody said "primarily" and you said "principally" as opposed to "primarily." Well, you know, what is in a name, Lewis Caroll might ask.

And in asking the gentlemen this morning to define it, they said "primarily" would mean more than 50, more than 50. Well, 50-50 or 51-49 is not good enough. And this language which would permit a 50-50 or a 51-49 division between exports and imports is not good enough.

And so, although you and I do not want "exclusively," I think we had better start going to the drawing board to come up with language which would accomplish what I think is our joint goal, that does it better than either the words "exclusively" or "principally" or "primarily."

Secretary BALDRIGE. Well, I would have to defer to my fellow Cabinet member, Secretary Haig, in his ability to pick words that effectively overshadow all of the possible complications. So let me just stick to what I think is a fairly——

Mr. LAFALCE. Please, let us defer to somebody, but not to Secretary Haig on that score. [Laughter.]

Secretary BALDRIGE. Let me talk about the word "principally" as opposed to "exclusively." In the trading world we live in, really I do not foresee—and there could always be an exception, but I do not foresee—U.S. export trading companies becoming principally importers. There are many, many fine companies outside the United States that are quite expert at selling us what we would call imports. Our need is clearly in the export area.

If these companies in exporting at times ended up in third party trade—you know, trade between two foreign countries, which is possible—or if they saw a chance to get some import business, and that usually would come about because of their connections in the exporting field, I think by tying their hands too much we could lose more export business than we would gain.

The trading world is simply too complicated to tie our hands with the word "exclusively."

Chairman ST GERMAIN. Mr. Weber?

Mr. WEBER. Mr. Secretary, I am not going to ask anything specific about the legislation itself. But I think that most important to me comes on pages 2 and 3 of your testimony on the importance of

exports to the U.S. economy. There is a great deal of skepticism, back in my district anyway, about the importance of exporting.

One of the questions is, Is it hopeless? What is being done by your office and the other offices of the United States to force the foreign countries to pull down the barriers that we hear about, the nontariff barriers to American exports, to American penetration of these markets? Unless we do that, what good is export trading company legislation going to do? That is the message I think that needs to get out to the American people.

I recognize that this is perhaps beyond the scope of this hearing, but I would like to have you comment on that if you care to do so.

Secretary BALDRIGE. Well, I would be glad to, Congressman. Japan comes to mind very easily for me, because I doubt if I could run for Congress over in that country now, even if I took out citizenship. We have been talking to the Japanese for years and years.

People ask me, what is different about this series of talks, and I will say that I think we are going to get something done this time. We have spoken in the administration with a completely unified voice and kept up the negotiations. The intensity with which we view the problem of the Japanese—our deficits with the Japanese stems primarily from the fact that too much of it is caused by their closed markets, where we do not have a chance to compete fairly and freely.

I can answer your question about what is going to be accomplished there better in the next 2 or 3 months, probably before the Versailles summit, because I think we will see something coming from the Japanese. I cannot say whether it will be acceptable, but I think we are going to see some real movement for the first time on their difficult job—I have to say this on their behalf—of opening up their markets, that have been really closed by barriers that have gone up since World War II.

In the case of Canada, we are having extensive negotiations on their Foreign Investment Review Act, where in effect they would like us to buy Canadian products more and more as a basis for being able to invest there or expand the investment we have there.

In the European community, the Commerce Department, and this is the first time any Federal agency in history did this, itself initiated suits against the steel industry in the European community. Later the American industry did the same thing, but we began that as a Government party. We did it because we thought that there was injury to our domestic steel industry—the ITC has made a preliminary ruling to that effect, as you know—and because we thought there were enough alleged subsidies or below fair market prices to investigate. We are in the process of doing that now.

I also would point out that we are in the process of having negotiations with Mexico on the, as we see it, problem of their subsidized exports.

Everywhere we find local content rules, we try and negotiate them "out," but we are not always successful. But I think I can say honestly and fairly that this administration is taking every measure that I know of to try and knock down the barriers that we see. It is a much more complicated task than that presented by simple tariff barriers, which are very visible. What we are running into

now are the more or less semivisible, in some cases almost invisible, nontariff barriers. We have to get at them.

Mr. WEBER. I appreciate your answer and I want to encourage you to continue maximum effort in that regard.

The second question is really the flip side of the first one. I am hearing more and more that the better way to create American jobs is to protect the jobs that we have by throwing up our own barriers as counters to the situation that we are facing in the world markets, with such things as import quotas, throwing up our own local content laws and that sort of thing.

It is important, I think, to understand what the effect would be on our American exports of throwing up those kinds of fortress America type of protections. In your judgment, what would be the effect of American protectionism on American exports, and what is the importance, again, of American exports to the expansion of the American economy in the future?

Secretary BALDRIGE. If we went back to the protectionist world that we had with Smoot-Hawley in the thirties, my only answer to your question—the most honest answer I can give you—would be: A trade catastrophe, a job catastrophe, for the United States.

We have 12½ percent of our GNP in exports now. We should see that rise if we are going to get more jobs. We have the ability to do it, and we have the products to do it, in the emerging high-technology area, as well as some of the raw material areas at the other end. We can compete anywhere in the world if we can get the barriers down in those countries. And that is what we have to do.

If, instead, we have to put up barriers around the United States and try to protect all our industries, we would see the GNP wither away. We have one out of eight jobs in the United States dependent in some way, shape or form on exports, and as our services and high technology industries develop, as they will, and as other countries are developing theirs, if we shut off one of our greatest abilities to export we would be very, very sorry.

Mr. WEBER. Mr. Secretary, I accept your answer. You know, I just want to urge that that answer needs to be gotten out to the American people, because the answer and the importance of exports to the American economy simply is not getting out to the people. So I would just encourage— I think everybody here would probably accept my judgment on that, that I would just encourage you to get those facts out to the American people, so the American people can understand why we should not go the route of that protectionist legislation.

Thank you, Mr. Chairman.

Chairman ST GERMAIN. If I might, I am really in line with this bill. Mr. Secretary, in this country now we talk about high technology. However, we are running out of highly technical personnel in our colleges and universities. What is happening is the faculty that are qualified to teach the sciences in the technological areas are leaving our colleges and universities and going to work for Wang Laboratories and all these other high tech firms. Also machine tool operators; there I think the average age is probably 57 or 58 years old.

My question is, Has the Department of Commerce conducted any statistical studies to see and determine what our problems are in

training and attracting people to work in these highly technical areas, to teach in these areas, and in the basic trades like I mentioned, machine tool operators, draftsmen, designers? Do you have any studies on this or statistics?

Secretary BALDRIGE. I am not aware of any that we have made ourselves. We may have made some, but we are amply supplied with statistics in the area you are talking about from industry groups, Department of Education, and so forth.

You put your finger on a very serious problem. Part of it is self-correcting, and that is the part about the teaching. This is my opinion, Mr. Chairman. We have seen, if you remember, a few years back a shortage of teachers because all of the World War II babies were going through school. And that began an influx of teachers. Now we see too many teachers at the secondary——

Chairman ST GERMAIN. Not the right type.

Secretary BALDRIGE. Not the right area. It was not fashionable, I guess, for some parents to want their children to go to technical high school back when I was growing up. And unfortunately, we are suffering as a result from not enough good technical high schools, from which people can have excellent careers after graduation going into something like the machine tool business.

There is no question about the lack of teachers in the high technology area in graduate schools. But we have already seen the beginning of a change in our colleges about what students major in, and also in graduate schools about what areas they are going in.

This will not answer the need in the next year or two, but it is a self-correcting phenomenon, because the salaries go up and they are wooed by colleges and all of a sudden it is a fine thing to be in that area where 10 years ago people neglected it.

I wish I had the whole answer for that, Mr. Chairman. But one of the things I am sure of is we have a need for it, as you pointed out, in the high technology teaching end. We also have a need for skilled workers. In the part of the country that you and I come from, that was one of our proudest heritages. We are losing it now.

I think that the States simply have to work more closely with, and allocate more money to, technical high schools in the State educational systems. I know in the town I came from we have a very good one called Kainter Tech in Waterbury. But if I remember the figures right, Kainter Tech could only take about 25 or 30 percent of the qualified applicants they had. We simply do not have enough technical high school education to meet the needs of the kinds of industries you were talking about.

Chairman ST GERMAIN. I apologize to my colleagues for interrupting.

Mr. Patman.

Mr. PATMAN. Mr. Secretary, if a bank holding company has an ETC would you expect the ETC to obtain its funds from the bank, either owned or controlled by the holding company?

Secretary BALDRIGE. I would expect them to go where the cost of money was the cheapest. But that is a difficult question to answer. They would not have to go to the bank holding company. I think the impetus would be there, naturally. They would be apt to favor the bank with which they were associated.

Mr. PATMAN. You are recommending that we amend the bill to provide for import trading companies, for permission to expand the ETC to become an EITC, I suppose.

Secretary BALDRIGE. If we used a word that would correspond to "principally" exports, they are set up for reasons of exports. The trade is frequently a two-way street and I think it would be tying the hands of a company too much in its quest for growth to have it exclusively export.

Now, I must say, I would not like to see another bill setting up import trading companies because I think we have enough good import trading companies right now. That is not our problem.

Mr. PATMAN. But you want all these ETC's to have a dual nature, both to finance exports as well as imports, is that true?

Secretary BALDRIGE. Yes, because I think our overall growth in exports will be much further ahead than if we tie their hands to just simply exports alone. There is also the question of trade between two other countries outside the United States. There is also the question of countertrade. And as I mentioned before, Mr. Congressman, the trading in today's world is a very complicated, complex series of opportunities.

Mr. PATMAN. So is legislation at times.

Secretary BALDRIGE. Well, if a group of companies gets together to export with a bank in the United States, it is hard for me to see, practically, how they would be more interested in importing than exporting. They have gotten together to export.

Mr. PATMAN. All right. If imports are included in the authorizations, could a lower rate of interest apply to imports than applies to exports, import trading as opposed to export trading? Any prohibition against that? Any need to incorporate in the bill some protection against that?

Secretary BALDRIGE. No, sir. I would not see any need. I would like to hear the Treasury Department's opinion on that, but I cannot think of any need for that. I think the marketplace takes care of that.

Mr. PATMAN. Suppose the bank holding company is owned effectively by foreign nationals. Would that change your opinion?

Secretary BALDRIGE. The way this legislation is set up, the Japanese could set up an ETC in the United States.

Mr. PATMAN. Could they also own a bank holding company, as far as you know?

Secretary BALDRIGE. Yes.

Mr. PATMAN. And maybe finance the imports of Japanese products into the United States?

Secretary BALDRIGE. Yes, except they would finance them from Japan because the interest rate is lower there.

Mr. MCKINNEY. If the gentleman from Texas would yield for just a moment.

Mr. PATMAN. Yes.

Mr. MCKINNEY. There are some figures that demonstrate it is not going to take export trading companies to take over the banks in the United States. The Saudi Arabians and the Japanese are taking them over.

Mr. PATMAN. That is fine. If they take them over, though, and use U.S. capital that they are paid by U.S. depositors to enhance

the imports of their own products to the United States, I think that is a question we ought to perhaps look at.

And I take it you see no danger in that, Mr. Secretary?

Secretary BALDRIGE. No. I think the rewards of the increases in exports would far outweigh any imports, and I think the import financing would be done on a marketplace basis, not by preferential financing.

Mr. PATMAN. By private negotiation, of course.

Secretary BALDRIGE. [Nods in the affirmative.]

Mr. PATMAN. Now, what protections should be in the bill, if any, to prevent a bank holding company from making funds available to ETC's in which it has an interest, an ownership interest, at a lower rate of interest than the same bank holding company would make to companies or individuals in the United States carrying on other activities?

Secretary BALDRIGE. Well, I think again——

Mr. PATMAN. Just the marketplace?

Secretary BALDRIGE. Commonsense, the marketplace, what have you. I think any preferential treatment would be looked on by the stockholders of the bank very carefully.

Mr. PATMAN. But we have arm's length transactions now between export trading companies that are now in existence and banks which help finance their activities.

Secretary BALDRIGE. Yes.

Mr. PATMAN. Which you would not have when the bank or a bank holding company owned the export trading company, correct?

Secretary BALDRIGE. If they had an equity interest, it would not be the same kind of arm's length transaction.

Mr. PATMAN. That is the whole purpose of the bill, is it not, to provide that a bank holding company could have an equity interest in one of these companies?

Secretary BALDRIGE. Yes; that plus the antitrust exemption for selling abroad. Those are the two main points.

Mr. PATMAN. Which committee considers the antitrust exemptions, Judiciary?

Secretary BALDRIGE. Chairman Rodino's Judiciary Committee.

Mr. PATMAN. You mentioned 1 percent of U.S. firms are responsible for 80 percent of our exports. Does the same ratio apply in Japan and Germany?

Secretary BALDRIGE. No.

Mr. PATMAN. What is the ratio there?

Secretary BALDRIGE. I do not know what it is, but I know they have a lot of medium and smaller sized companies exporting. Mr. Congressman, let me withdraw that. I should not say no, because I have not seen the exact figures. But my impression is that they have many, many small- and medium-size companies, and I think the same is true in Japan, France, and England.

And I think it is true for a good reason: Those countries have had to grow more by exports than we have. We have had a pretty good domestic market here for a long time, and it has just tightened up lately. And as we face more import competition we are going to have to be able to export more.

Mr. PATMAN. Could you perhaps gather the information about what 1 percent of their companies export to the United States as a percentage, and send it over to me or the chairman?

Secretary BALDRIGE. Yes, I will.

Mr. PATMAN. Are there any protections that should be incorporated in the bill which you do not recognize as it is presented to us?

Secretary BALDRIGE. No, there is no further protection that I see need for, Mr. Patman.

Mr. PATMAN. Thank you.

Chairman ST GERMAIN. Mr. McCollum.

Mr. MCCOLLUM. Thank you.

Secretary Baldrige, I am pleased you are here today testifying on the bill. I think we need ETC's. I am a strong supporter and have been of these companies, but it does seem to me that there is a sort of bottom line, fundamental question that has not been directly addressed in your testimony today that I would like to give you the opportunity to address. Could export trading companies work without bank participation?

Secretary BALDRIGE. I do not think so, Mr. Congressman. The larger companies can, but they are already exporting in most cases or have the means to do so. This bill would help the medium and smaller size companies who may have one product line out of five that is suitable for export. They may have a whole line of suitable exports, but a small company might not have a marketing and distribution setup available in whatever country they are trying to export to, and to set one up would be prohibitively expensive.

By getting together with a bank holding company, a series of other manufacturers, you can put together a whole line, in some cases, or adequate warehousing or adequate distribution in other cases, so that in effect you share the expense.

Now, machine tools come to mind as an example. Let's say that you made a perfectly competitive line of machine tools for automatic lathes or automatic chuckers, but to sell machine tools and to distribute and market them, you would need a wider range. You would have to have numerically controlled machine tools which somebody else may produce. They would get together and then one salesman can go in and sell the whole thing. That is why you need bank holding companies as well as other manufacturing companies.

I would say finally that it is a truism in business that your sales are dependent on your capital base. It varies with different industries, but obviously, with a base of x amount of capital you can only sell x times x, if I can use that phrase, and the larger the capital base, the more you are able to sell.

So the additional equity, I think, is important.

Mr. MCCOLLUM. So you are saying the large companies that are already exporting could do OK as they are. For the small companies that we are really addressing and trying to address in this legislation, to be able to get the capital necessary to do this, they need to be able to have direct ownership participation by capital financial institutions who, rather than just going out and getting together as cooperatives and getting loans and this sort of thing——

Secretary BALDRIGE. Exactly. And I can also see combinations and permutations of a bank holding company that would include

some large manufacturing companies who may need their own line filled out or may have a distribution system that a smaller company can piggyback on, and there would be advantage then for both.

By and large, the large companies have the equity, the capital base, the means of getting loans that medium and smaller size companies perhaps would not.

Mr. McCollum. There have been some opponents of this proposal that have suggested that export trading companies could exist for smaller manufacturers as we want them to without bank participation. In fact, though they may not be numerous in total numbers, such efforts would work, and in fact if we let banks participate, they will simply be dominant in the marketplace, which they would not have to be otherwise.

That is the kind of criticism I am hearing, the only criticism, really. Can you respond to that?

Secretary Baldrige. Well, I do not think that is correct at all. That is my response. Our trading competitors have banks in their trading companies. You do not see the banks being the dominant factor there. A bank, as the chairman pointed out, may help an individual company sell its line of products through all kinds of entrees or various services a bank has, but I will guarantee you if the product is no good, if it is not competitive, if it is not priced right, if it is not managed right, it is not going to work.

So the companies and the products they sell are going to determine the success of a venture, but to help them I firmly believe you should allow banks to associate with them in that endeavor.

Mr. McCollum. I do not have much problem with that at all, but I did want you to be able to address them because those direct issues have been presented in an occasion where I have been present.

Mr. Chairman, I yield back the balance of my time.

Chairman St Germain. Mr. Vento.

Mr. Vento. Thank you, Mr. Chairman.

Mr. Secretary, I am sorry I was not here to personally listen to your remarks, and we do appreciate your coming before the committee to state your views on this legislation.

I am not as familiar as I would like to be with it, and I know that we have a role to play. Ours really deals with the credit and the Glass-Steagall Act and the amendments in that vein that concern us.

I guess there might be some who would suggest that individual small- or medium-size companies ought to fulfull that role in terms of the services, the language, the cultural barriers, understanding the laws and so forth, but I am not one to reduce the role of Government in those areas. In fact, I think that we ought to be doing more in terms of that.

But be that as it may, the Government has not, and so I guess if we can set up a facility or facilities like export trading companies to accommodate that, that would be OK. But if you get down to the credit aspect, which our committee is focusing on, can you cite any specific examples where credit discrimination has existed, for a lay person like myself, where credit discrimination has existed against American products in the marketplace in foreign markets?

Secretary BALDRIGE. I do not really think that is a problem, Mr. Congressman. I cannot bring up any particular instances and, as a matter of fact, do not think that has been widespread. There may be some cases, but that is not the reason for the bill, just the ability to obtain credit.

If you are a small or medium-sized manufacturer—and let me perhaps oversimplify—and you were just making this one kind of microphone and selling it, and you had the best in the world, or you thought you did, And you started to sell this in Japan or Germany or Italy or South Africa or North Africa, you would find that the marketing, distribution and advertising expense to open up the market for this one product is, most of the time, prohibitive. You have to have a large enough product line and be ready for, in a great many cases, 2 or 3 years of being in the red before you are successful.

I have seen in some cases where we have not been successful after doing that. It is a tough business to get into the overseas markets. It takes a lot of work and it takes initial expense and money.

Now, where you can get smaller, medium-sized companies together with others like them or with larger companies where there is some commonality of distribution so that it lowers the expense for selling this particular microphone, or whatever it happens to be, and a bank that believes you can do it, along with help from the other companies, then I could see the prospect of export trading companies working. I do not think it is a problem of just being able to get credit. I perhaps would not give credit if I were a banker for somebody who could just sell this one microphone.

Trying to take a small line of products overseas in a medium-sized or small company is a very, very expensive kind of thing, and the way to lessen the cost is to be able to get together with some of your competitors—and that is prohibited by the antitrust laws now—and have a bank go with you who understands your problems and can stick with you while you get straightened out.

Mr. VENTO. While I appreciate your response and understand, that, they talk about it here conservatively, a 5-percent increase in exports, and you point out that this would be $11 billion. Do you expect an extension of credit for those particular exports from these bank holding companies, an extension of credit along these lines to accommodate that $11 billion, that conservative figure that you have in here?

And second, of course that is an expansion. Do you expect that the bank holding companies would indeed absorb and extend some of the credit that is currently going on for existing exports, which are quite substantial?

Secretary BALDRIGE. I think the credit would come in many different ways, Mr. Congressman. If you were selling in Europe, for instance, I could see that some of the funds would be borrowed over in Europe. I can see some of the initial borrowings being from the U.S. bank involved and maybe laying off some of it on some other banks.

I think there are a myriad of ways that could work, but to address your specific concern about whether U.S. banks, if they were involved in a trading company and lent the money, would thereby

take away credit facilities from other domestic U.S. customers, which I believe is the point of your question——

Mr. VENTO. That is my point. That is exactly right.

Secretary BALDRIGE. I would say this. We have to be able to look on exporting, if we are going to grow in our GNP and provide American workers jobs, just as we look at the farm implement business, the automobile business, any domestic business. Credit should go where the credit worthiness lies and the expansion opportunities lie, and if an export trading company has a better chance of growth, it would still supply America jobs in so doing. The moneys, the funds will go there.

I do not think you can or should allocate credit. I think it should go, as it always has, to where the best loans are. I myself do not look on an export trading company as being anything other than an American institution giving jobs to American workers, and if it happens to be better at a certain time than any other given industry in the United States, I think water has to seek its own level. It does now anyway in the United States in the domestic economy, and these would be products we are making in the United States.

Mr. VENTO. I understand that. We are talking about credit for a different purpose here. I mean it is for a new service, admittedly. It is a Hobson's choice, at best. But the thing is can you give us any figure as to what you anticipate would be the amount of credit that would remain static or that this would use from the total pool that might exist? I mean you are talking $11 billion worth here, and surely some of this would be utilized for existing exports that take place.

I am interested because we do, of course, offer some unique advantages for exports through the Export-Import Bank, as you are well aware, and through other means, and the question here revolves around a second question. I would like to see if we can quantify that a little bit more than what you did in your answer at this point.

Second, you know, you say it seeks its own level, but we are sort of giving an incentive here, as you well know, to bank holding companies to set these up. I am not resting easy in my own mind that the decisions that they would make would be addressed to credit worthiness and so forth. But it might be some sort of ambitious program to promote something that sort of gets in the way there. That is the basis for the separation that exists in Glass-Stiegel, and so we do not have this type of separation that initially exists, and I would like to have some reassurance from you along those lines or from other witnesses that will be appearing before our committee.

Secretary BALDRIGE. If you took a figure of 10 billion dollars' worth of exports, you would clearly have to finance them through some vehicle for a period of perhaps 120 days, maybe longer in some cases.

Mr. VENTO. Mr. Secretary, that assumes the growth figure you assumed conservatively.

Secretary BALDRIGE. It would take approximately 5 years to get up to that.

Mr. VENTO. Don't you agree, Mr. Secretary, that some of the existing exports would also be utilizing these existing export trading facilities? I guess we are just talking about the growth figure there

and I appreciate that, but I just wanted to point out that there probably would be some existing ongoing trade, that now does not enjoy or utilize this, that would do so.

Secretary BALDRIGE. I do not see why a company that is successfully exporting now would go into an ETC unless it had some symbiosis—I knew I would say that word wrong—some synergy, whatever you want to call it, with the other companies that are getting together with it in an export trading company, and they help each other on distribution and marketing.

The point, to me, is that these are all products, at least principally products, depending on how the bill comes out, made in the United States, giving jobs to American workers, and they are going to have to get financed some way. I do not think that we can try and protect the status quo from the real need that we have for growth in this area because we are going to see imports grow in this country and we are going to see our GNP growth slow down as compared to what it has been in the last two decades.

I do not think the particular concerns that you have are really pertinent to the problem of American jobs and American business because we are talking about U.S. trading companies now. I do not see this being taken away from any other sector. I see it as growth in the overall, and there is, despite what I hear or see written about the Federal Reserve policies, there is planned slow, steady growth in the monetary supply.

Mr. VENTO. If they are going to accommodate this, Mr. Secretary, then there would be no problem with that particular issue. But I am assuming that the administration is not changing its policy, and the Federal Reserve Board religiously following it is not going to be modified to accommodate anything like this.

Secretary BALDRIGE. That is safe to assume, but I am still not quite clear on your concern. Is it that export trading companies will take away financing from other worthwhile projects?

Mr. VENTO. I think there is just a certain amount of credit that is available. I think that is given, and I am concerned not just about the $11 billion but that some of the existing trade will fall into this particular category and we will be using our credit for financing the sale abroad of exports, sort of a consumer use of credit as opposed to a capital use of the credit; that that deteriorates our ability to do things. I guess that is right.

I think you anticipated very well what my concern was, and I do not know that you have given it a great deal of thought. Maybe it is not a question that is important, but I would hope you would look at it more closely. I realize it is not solely your domain, but that is, of course, what interests us here.

The second thing that interests me is I think there is an assumption that within Glass-Stiegel, the assumptions that they have been at arms-length type of positions and the question here that you put out that seeks its own level, that there is sort of a Hawthorne effect on a holding company to accommodate a new entity, a new activity, a new holding company that it has, and what type of safeguards we have to look to to deal with that, I guess, is a committee responsibility, maybe one that you have already anticipated.

Secretary BALDRIGE. Yes; I have thought about that, Mr. Congressman. I could think about it for another 2 weeks. I think I

would come to the same conclusion. We are talking about growth, we are talking about exports that are not happening now. Any company that is exporting presently has got, by and large, except the ones that are failing for some reason, satisfactory credit or they would not be exporting, so I do not see that they would just rush into this kind of a situation if they are already being taken care of in the credit markets.

Exports are now up to 12½ percent of our GNP and are a major factor in job creation in this country, one out of eight jobs. The kind of competition we are facing, as I indicated earlier, with regard to the Japanese—the last figure we had is some 6 or 8 years old—is that the Japanese trading companies finance 34 percent of the top 450 companies in Japan. I do not think we can sit in our cocoon and compete worldwide unless we have some of the same vehicles that our trading competitors in England, Germany, Japan, and France have.

Mr. VENTO. Thank you, Mr. Secretary. My time has expired.

Chairman ST GERMAIN. Mr. Lowery.

Mr. LOWERY. Thank you, Mr. Chairman.

Mr. Secretary, I think you were right on both counts, with both export companies being benefited synergistically and symbiotically. When I look at what has happened throughout our history, and particularly at our most recent history, our declining share of world market, our negative balance of payments, the fact that we are not a nation of exporters, we have always looked to domestic markets, and it is just now as we see those domestic markets being competed for by foreign firms very effectively. I think it behooves us to look elsewhere. Except for the areas of agriculture and aircraft and some of our very sophisticated high technologies such as the nuclear field, we really have not done too well as exporters.

I share your concern in terms of job creation, particularly amongst smaller or medium-sized businesses. In fact, Mr. Secretary, to help your argument let me share with some testimony we had this morning from Mr. John Deacon, chairman of the Small Business Association of New England, International Trade Committee, where they surveyed their membership and found that 58 percent of their firms, the smaller firms, nonexporting firms, had considered exporting at some time but did not proceed.

Forty-two percent did not consider exporting at all, but I think it is interesting to note that well over half of the firms considered exporting. I think that is a wee bit of higher percentage than many of us anticipate, but in the reasons they give for not exporting, 11 percent said they were in the process of evaluating it now, 12 percent were too busy with the domestic market, 24 percent said lack of marketing capacity or resources, 37 percent said it takes too much time or money, 7 percent mentioned shipping costs and duties, 8 percent said there is no overseas market for their product, and 12 percent gave other reasons.

But if you look at that, lack of marketing capacity or resources, takes too much time or money, or that there is not a market for the product overseas, we are looking at about 70 percent, I think, of smaller firms that could very definitely benefit from this type of activity.

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You shared with us the Japanese experience. How have other nations, Europeans, for instance, how have they set up their exporting operations? Is it in a symbiotic and synergistic relation with their financial institutions?

Secretary BALDRIGE. Not very happily.

Mr. LOWERY. Are we the only nation that has had these historic perturbations?

Secretary BALDRIGE. We are the only major industrial Nation, to the best of my knowledge, that does not allow this kind of operation with banks and does not provide antitrust exemptions.

Mr. LOWERY. Needless to say with the recent history, we do so at our peril.

Secretary BALDRIGE. Yes, I am convinced of it.

Mr. LOWERY. The numbers in your testimony, Mr. Secretary, were very encouraging, a conservative estimate, which I think in view of the survey results I just shared with you, a mere 5-percent improvement resulting in some 350,000 jobs, I think it would be far, far in excess of that.

Secretary BALDRIGE. Yes. I want to be careful about figures because I do not believe in giving any estimates that we are not going to be able to back up later. You just lose credibility for any future efforts. The fact is that nobody really knows. What we are trying to do, and we do not want to present it as scientific evidence, is to get some of the best estimates we can. I thought to do that we ought to put our own people on it and give them a questionnaire, and ask them to go out and talk to banks and manufacturing companies.

I mentioned that they were to talk to around 6 banks and 10 manufacturing companies in their areas, and you would expect people in that kind of a quiz to be more optimistic, perhaps, than the later facts would warrant. What we found out was that about the lowest number given was 5 percent, the highest was up to 20 percent, and in fact in my testimony today I threw out the optimistic end of that and said that I think it is reasonable to assume we could get at least 5 percent.

Five percent does not sound like all that much until you relate it to total exports and to the number of jobs. We said 350,000 jobs. If we were not even correct on that, and it were 200,000 jobs, I would still be happy. But we will never know unless we try.

Mr. LOWERY. It would open up entirely new markets to us which have been available. We just have not taken advantage of them.

Mr. Chairman, I commend you for convening these hearings. I am quite optimistic this bill will move very, very well through the Banking Committee.

My question for the Secretary is as to the status of judiciary and foreign affairs, what kind of antitrust problems and otherwise are you running into?

Chairman ST GERMAIN. Why don't we ask Chairman Rodino to answer that.

Secretary BALDRIGE. That was going to be my answer, Mr. Chairman.

Mr. LOWERY. Are you optimistic?

Secretary BALDRIGE. Yes, but I would still prefer that question to be answered by Chairman Rodino.

Mr. LOWERY. Thank you.

Thank you, Mr. Chairman.

Chairman ST GERMAIN. Mr. Wortley.

Mr. WORTLEY. Thank you, Mr. Chairman.

Mr. Secretary, could you be a little more specific about what product lines you see benefiting most from ETC's, and specifically in what foreign markets?

Secretary BALDRIGE. Let me take the foreign markets first. I happen to think—and I could be wrong about this—but I happen to think that the Japanese are going to make an effort to open up their markets. And I just hope I am right about that. If that were to occur, that is certainly one area where a smaller company and a medium-sized company would be lost, absolutely lost, without an export trading company's help.

Mr. WORTLEY. It does not seem we have done anything up to this point, that if we do not open those markets up——

Secretary BALDRIGE. No, no. You notice I qualified that with "I hope." But let us say, if that were to happen, medium and smaller sized companies would be absolutely lost without an export trading company.

A few months ago I led, with Secretary Block, a trade mission to West Africa. The French have held the reins of economic power in most of those countries because of their long tradition, history, and the flow of trade between their countries.

They were delighted to see us.

I think the total number of contracts we signed actually on the spot were about seven, at least seven or eight contracts, in 2 or 3 days in each country. I did not think we would sign any on the trip. We will get about $200 million or $300 million worth of business out of that.

Again, there is a great opportunity in West Africa, where most of our medium and smaller sized manufacturers would not think about going without an export trading company. And there is a market there for us.

There is the obvious cases of the potential growth in the other Asian countries besides Japan. We have had quite a growth of trade with China. It is up to a two-way trade of $6 billion now. The growth has slowed down. But I think that sometime in the future it will pick up again.

Again, medium and smaller sized manufacturers, would be lost. The expense would be too much unless they could get into export trading companies. And of course, given the complicated distribution markets in the Common Market and the European Community, I think that the ability to get together with some of your competitors and work out a product line together lower significantly the cost of marketing and distribution. This is a very significant factor.

I do not know just how to rate all of those, but those are all definite possibilities, and definite areas in which an ETC could help.

Mr. WORTLEY. Those are areas. What product lines?

Secretary BALDRIGE. I mentioned machine tools as an example. I think that is an excellent example because we have some very good machine tool manufacturers in the United States. We get quite a bit into specialty machines. We concentrate on one kind or another and make a name in a certain area, whether it is automated drill

presses or automated checking machines or numerically controlled machines, heavy presses and so forth.

Again, to get the distribution and marketing costs down instead of going over there with just one line of presses and trying to break into a market, if you can get together with a whole array of machine tools, it is really a natural.

The apparel business, our textile people have done quite well in the export market. Our apparel people I think exported probably half a billion dollars 2 or 3 years ago. They are up to maybe $1 billion-plus now, maybe close to $1.5 billion, after a lot of exhortations and speeches and so forth from people inside that community. And I have spoken with them myself. That is not the reason they have gone. But they did see the opportunity.

But the apparel people are, by and large, smaller manufacturers that make specialty kinds of apparel, with the exceptions of a few very large companies, like the Bluebells and Levi Strauss.

To be able to get together in export trading companies in the apparel business, which is so style-responsive and has such a great turnover, would be a tremendous help to a small and medium-sized apparel manufacturer down in the South.

The furniture industry, people are not going to buy just one style or one kind of make of furniture. If you could put the whole line together that covers most of the trends in Europe or wherever you are going, it would be a great help.

Those are examples of the kinds of industries, specific industries that would really be helped by this.

Mr. WORTLEY. Thank you very much, Mr. Secretary.

Thank you.

Chairman ST GERMAIN. Mr. Secretary, on page 10 you mention a figure of $300 million for a small bank that would not have to work through the holding company, as an exception. But as I understand, one of your recommendations would be to allow a number of banks, small banks within a region, to work together to form an export trading company. Is that not correct?

Secretary BALDRIGE. Yes.

Chairman ST GERMAIN. It is sort of curious to me. If you take 10 small banks in that region, at $300 million, you are talking now of a $3 billion institution. I would hope that we might have further discussions as to that number, $300 million, and maybe think somewhat in terms of $100 million. I think that probably would be more palatable.

If a bank has $300 million, they can go through the holding company device. It is not a very complex or complicated device to engage in.

Secretary BALDRIGE. No; I understand, Mr. Chairman. My thought there was that at $300 million, if you are willing to go through all of the steps it takes to form a holding company, it may not be as complicated for a company that size as for a smaller one.

Below $300 million, I was just concerned that some good banks that did not want to be holding companies or that thought the expense or the time was not worth it would be kept out of this and some of those banks would be good at exporting.

That is why I thought these banks should be permitted to invest, subject to approved by the Federal Reserve. It might not be pertinent, but that is a suggestion.

Chairman ST GERMAIN. Perhaps we could have further discussions on that as we proceed.

Mr. Patman, I understand you have one last question you would like to propound to the Secretary.

Mr. PATMAN. One in a few parts.

Just briefly, though, what is the advantage that the Japanese have over us in the interest rates for their exporting?

Secretary BALDRIGE. It is about 9 percent. Their interest rates at home now are in the 7 and 8 percent area. Ours are 16 percent.

Mr. PATMAN. The same thing applies on their manufacturing as well? I mean the company that comes to the export development company, having manufactured its product, has experienced the interest rates in Japan at a much lower level than in the United States.

Secretary BALDRIGE. Right.

Mr. PATMAN. All those costs go on to the price of the product in world trade.

Secretary BALDRIGE. Yes. And if it is an industry that they are trying to promote and have picked out for special consideration, we have seen enough cases where that interest rate can get down to as low as 3 percent.

Mr. PATMAN. Would you recommend that bank holding companies be allowed to invest in transportation companies and manufacturing companies, other things, other companies that might be engaged in international trade?

Secretary BALDRIGE. Well, if we are talking about exporting those products, yes. If you are talking about transportation systems in a foreign country, I would say no. But if it is exporting equipment, I would say yes.

Mr. PATMAN. And exporting any sort of goods, whether they be cotton sheets or——

Secretary BALDRIGE. Services or otherwise, yes.

Mr. PATMAN. And import them, according to your testimony earlier.

Secretary BALDRIGE. Yes. I think we would be further ahead.

Mr. PATMAN. Thank you, Mr. Chairman.

Chairman ST GERMAIN. Thank you, Mr. Patman.

Mr. Secretary, we thank you. We will have some further written questions for you, without objection. And we look forward to a continuing working relationship as we have had over the past few months with yourself and the staff so we can resolve some of the few areas of conflict that have arisen. So we look forward to working with you and are hopeful of expeditious action.

Secretary BALDRIGE. Mr. Chairman, I want to thank you for your cooperation, too, and your willingness to move this forward. I really appreciate it.

Chairman ST GERMAIN. Thank you.

[Chairman St Germain's May 4, 1982, letter to Secretary Baldrige, containing a summary of H.R. 6016 issues and requesting comment, and the response of Secretary Baldrige, dated May 19, 1982, follow:]

FERNAND J. ST GERMAIN, R.I., CHAIRMAN
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May 4, 1982

The Honorable Malcolm Baldrige
Secretary of Commerce
Washington, D. C. 20230

Dear Mr. Secretary:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

In addition to any comments on the foregoing summary, which you may care to make, the Subcommitee will appreciate your response to the following questions based upon your testimony:

1. Expanding on the modification issue, several witnesses stated that H.R. 6016's prohibition on ETCs engaging in manufacturing should be made more flexible. The activities of smaller companies which engage in "minor product modification" such as converting electrical appliances to conform with overseas voltage requirements and repackaging with foreign language instructions, could render them ineligible for investments by BHCs and Edge Act Corporations under H.R. 6016. Should these smaller companies be made eligible for investment and if so, can you suggest statutory or regulatory language which could include them? Related to this are the following questions:

-What types of "minor product modification" should be allowed?

-Do you have any statistics as to how many "exporting" companies presently engage in some form of "minor product modification" before exporting?

-What is the average size of such exporting companies?

-What area(s) of the country, if any, are such companies concentrated?

2. You will recall that Congressman Patman on page 112, commenting on your reference to 1% of U.S. firms being responsible for 80% of this country's exports on page 77, asked for the ratio relevant to the exports of Japan and Germany. We would appreciate the information being sought by Mr. Patman requested for the record.

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain
Chairman

Enclosure

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

MAY 19 1982

Honorable Fernand J. St Germain
Chairman, Subcommittee on Financial
Institutions Supervision, Regulation
and Insurance
Committee on Banking, Finance and Urban
Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 6016, the Bank Export Services Act. I appreciate the opportunity to comment further on the issues raised at the April 22 hearings. I will address each issue as it is raised in your letter.

1. Participation in ETCs by non-bank holding company banks

As I indicated in my testimony, many regional and small banks situated throughout the country, which are not bank holding companies, can play a very important role in the success of export trading companies. I would therefore support a proposal to permit non-bank holding company banks which have assets of less than $300 million to participate in an ETC, with appropriate safeguards.

2. Similar name

As I indicated during my testimony, I see no reason to prohibit an ETC from using the same name as the investing institutions. Neither the typical investor in, nor the user of, an ETC will be misled by the similar name.

3. Modifying the "exclusively" requirement

As I indicated in my testimony, the "exclusively" requirement should be changed to a requirement that an ETC be "principally" engaged in exporting or facilitating the export of goods and services produced in the U.S. To be competitive, ETCs will have to engage in two-way trade and third party international trade, wholly outside U.S. commerce. That is the way other nations do it. There is no reason to tie our hands on this issue.

The intent of Congress in using the word "principally" should be set forth in the legislative history. The actual administration of this requirement, however, would be better left to regulatory guidelines.

4. Product modification

See discussion below.

5. Five percent limitation on investment

The five percent limitation on BHC investments constitutes a compromise between many competing interests. The Senate bill contains a similar limitation. We would, however, have no objection to liberalizing that limitation, if the Committee deems it appropriate.

6. Taking title

As I indicated in my testimony, an ETC should be allowed to take title to goods. Authority to take title can be conferred by explicit statutory language, or clarified in the legislative history. The actual administration of this activity would be most appropriately handled by regulation with appropriate safeguards.

7. Section 23(A)

ETCs would be unlikely to generate the huge sales volume which we envision without access to loans. Typically, however, an ETC has little collateral to put up against its loans. Most of its cash is devoted to supporting sales overseas. An ETC's foreign accounts receivable are usually discounted at a fairly high rate in the market place. If a bank affiliated ETC could borrow from its parent bank without having to provide collateral, it would have much greater sales potential.

The Senate bill, S. 734, provides a limited exemption from the collateral requirements of Sec. 23(A) for loans made by a national or State bank to its ETC affiliate if the regulatory agency determines such exemption does not expose the bank to undue financial risks. We do not believe, however, that Sec 23(A) needs to be applied to transactions between a bank holding company and its ETC.

In your letter, you also ask whether an ETC should be able to engage in "minor product modification", and ask us to suggest appropriate statutory or regulatory language. In addition, you request information about the percentage of exports from Japan and Germany accounted for by large manufacturing companies.

I do think it is important for an export trading company to have the flexibility to engage in limited "minor product modification" in order to ensure compatibility of a product with the requirements or customary usage in a foreign country, and to provide for secure and economical transportation of the product. This could be stated explicitly in the legislation, or included in the Committee Report. We would suggest appropriate regulatory language that makes clear that the prohibition on manufacturing does not include disassembly, assembly, packaging, repackaging, marking, sorting, grading, cleaning or other treatment or minor modification of products which is necessary to securely and economically transport the products and effectively sell them in world markets.

With regard to the number of Japanese firms responsible for that country's exports, it is difficult to make a comparison between the U.S. and Japanese experience. Most Japanese exports are generated by trading companies, and not by manufacturers. The most recent data available indicate that the ten largest trading companies accounted for more than 50 percent of all Japan's exports in each year between 1971 and 1976. Available data for later years do not indicate any change in these trends.

While the goods of small and medium-sized companies do get exported by these trading companies, it is perhaps more accurate to view these companies as suppliers to the trading companies. These trading companies, in most instances, acquire title and control of these goods and then export them to the appropriate markets. In fact, these goods could end up in the domestic market, as exports represent only about 21 percent of total sales of the ten largest trading companies.

With regard to Germany, the Department does not have any data on the extent of German exports by size of the exporters.

On behalf of the Administration, let me reiterate our appreciation for your efforts on behalf of this important legislation.

Sincerely,

Mac Baldrige

Secretary of Commerce

Chairman ST GERMAIN. Now we are very honored to have with us prior to the next panel listed, a holdover from this morning's hearing, my fellow Rhode Islander, the junior Senator from the State of Rhode Island, John Chafee, who has been a proponent of export trade legislation both in the last Congress as well as this Congress.

His dedication to this effort is well known. And we are very pleased to have him take his valuable time this afternoon to join in our hearings.

STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Thank you very much, Mr. Chairman and members of your committee. I want to thank you for your kindness in putting me on so rapidly at this instant out of order because I was unable to be here this morning.

First, I would like to congratulate you for your deep interest in the export trading companies, the expeditiousness with which you are moving along this legislation and the hearing. And I wish you great success with your efforts in bringing it to the floor and, hopefully, to achieve passage.

If I might, Mr. Chairman, I would submit my statement for the record. All I wished to do was make a couple of points.

Chairman ST GERMAIN. Without objection, we will place your entire statement in the record.

Senator CHAFEE. Thank you, Mr. Chairman.

First, as you mentioned, I have been long interested in removing disincentives and increasing exports. Last year we, in connection with the tax bill, eliminated the taxation of Americans abroad. We passed in the Senate a bill dealing with the Foreign Practices Act, and that is now before the House, where I hope it will achieve passage before too long; and now the Export Trading Companies Act, which you are moving along here.

Just recently, Mr. Chairman, in our home State, I conducted an export awareness conference for small businesses, and I learned that many of the companies did not—small companies that is—did not export because they did not have the funds to invest in developing markets overseas. They did not have the skill, the personnel, to master customs processing requirements and the details that go with trying to sell goods overseas.

And as the Secretary mentioned, they did not have a broad enough line to present to potential customers, whereas under the Export Trading Companies Act they would be able to do so.

You have had a lot of testimony here today, so I will not repeat it. But there was one ironic fact, and that is that the sixth largest exporter in the United States is a Japanese trading company. There are only a few American trading companies, or Webb-Pomerene trade associations. And at present, I noted in our own State four small- to medium-sized firms belong to such associations but the difficulty in obtaining adequate financing or the uncertainty over the antitrust problems have prevented trading companies from reaching more than a small fraction of the total of U.S. firms which could export.

So again, Mr. Chairman, we look forward to this. We think there are tremendous opportunities that can be achieved. I always work under the theory of a billion dollars of exports amounts to 40,000 jobs in the United States. So if we can increase these exports $2, $3, $4 billion, whatever is possible, it certainly will produce more jobs.

I thank you very much, Mr. Chairman.

[The prepared statement of Senator John H. Chafee follows:]

PREPARED STATEMENT OF SENATOR JOHN H. CHAFEE

Mr. Chairman, I would like to thank you for extending your kind invitation to me to testify before this subcommittee on the need for Export Trading Company legislation. My comments this morning will not be addressed to the areas of differences which exist betweeen S. 734, the Export Trading Companies Act of 1981, and H.R. 6016, the Bank Services Act. I will leave that to the New England Institute witnesses, Mr. Anderson from Hospital Trust, and others who will appear before you today.

My message instead is to urge prompt action on H.R. 6016 in the House so that we can enact Export Trading Company legislation during this session of Congress.

We need to act promptly to do all we can to help promote the growth of our exports and to provide the new jobs and improved economic picture that increased exports can produce.

That is the basis of my commitment and interest in export trade issues as a member of the Senate Finance Subcommittee on International Trade. I have spent the last several years working to remove the major disincentives to U.S. exports, such as the taxation of Americans abroad, the ambiguities in the Foreign Corrupt Practices Act, and to enact legislation allowing the creation of Export Trading Companies. We have taken care of the taxation of Americans abroad in the omnibus tax bill of 1981.

Last November, my bill to clarify the Foreign Corrupt Practices Act passed the Senate, and I am confident of action here in the House. However, as a cosponsor of S. 734, the Export Trading Companies Act of 1981, I am concerned that the momentum that we built with the unanimous passage of the bill in the Senate last April has been lost over here in the House.

As one of the most export-oriented regions in the nation, New England stands to gain a great deal from the passage of an Export Trading Company bill. In 1980, export sales from the New England States alone totaled $10 billion and generated 135,000 jobs in the region.

According to the New England Institute's Export Trading Company Task Force, who will be testifying before you today, the creation of Export Trading Companies would mean an additional $500 million in export sales and over 10,000 new jobs.

Having recently sponsored an export awareness conference for small businesss in my home State of Rhode Island, I learned that many companies do not export because they have neither the funds to invest in market development overseas, nor the time or personnel to master customs processing requirements, and many of the details involved in selling goods and services overseas.

These companies need far more than a 1-day conference, or a Commerce Department brochure. They need someone to market their products for them and a way to spread the risks of doing business overseas among many firms.

Trading companies could give U.S. manufacturers, especially smaller firms, access to experienced traders who are equipped to handle all the intricacies of exporting and who have the expertise to develop markets for U.S. goods. Trading companies can pool talent and resources to do market analysis on behalf of thousands of American firms.

It is well-know that trading companies have been responsible for much of the success of Japan, Korea, and Taiwan in selling their products around the world. In fact, more than half of all Japanese exports are handled by Trading Companies. Many of our foreign competitors discovered years ago that trading companies offer their manufacturers an inexpensive way to export.

It is ironic that the sixth largest exporter in the United States is a Japanese trading company. There are only a few American trading companies, or Webb-Pomerene trade associations. At present, four small- or medium-sized firms in my State of Rhode Island belong to such associations, but the difficulty in securing adequate financing, and uncertainty over antitrust exemptions, have prevented these "trading

companies" from reaching more than a small fraction of U.S. firms which could export.

This is why the trading companies legislation, which solves many of the disincentives associated with forming and operating a trading company, is a necessity.

The United States has a good opportunity over the next few years to expand exports. The price competitiveness of U.S. goods is better now than it has been for several years. There is a strong foreign interest in U.S. consumer goods, both low and high technology. U.S. trading companies could develop markets for a wide range of U.S. goods, as Japanese trading companies have done for Japanese products.

By creating export trading companies, we can encourage the use of an important trade incentive, which will help our balance of trade, and create thousands of new jobs for American workers through the sale of more American goods and services.

Thank you again, MR. Chairman, for the opportunity to appear here today. I would like to commend the New England Institute's Export Trading Company Task Force on its excellent analysis of the need for Export Trading company legislation to encourage the growth of New England exports.

Chairman ST GERMAIN. We want to thank you again for taking your time. I might mention as far as the antitrust provisions, the legislation I introduced does not deal with that at all, my purpose being to move this legislation along. And I felt that if I could take care of that which comes within the jurisdiction of this committee, then there might be more incentive for that antitrust provision to be addressed.

It is sort of an encouragement to Judiciary to move along. [Laughter.]

But at least this committee will have indicated to the world at large that it, indeed, is concerned about increasing our exports.

Senator CHAFEE. Fine.

Chairman ST GERMAIN. So we thank you.

Are there any questions by any of the members?

Mr. McKinney.

Mr. MCKINNEY. No questions. I would just like to thank the Senator and congratulate him.

I participated in your State in a meeting several months ago when the New England Institute started on this process. We really appreciate your support and your backing and your activity on the Senate side. Exports are Rhode Island's fastest growing source of jobs, as it is in Connecticut and, in fact, all six New England States.

It is an amazing fact. Most people have never quite frankly thought of New England as a large exporter. But we have increased at a rate that is almost 2.5 percent higher than the rest of the country put together. I thank you very much.

Senator CHAFEE. Thank you.

Chairman ST GERMAIN. Mr. Vento.

Mr. VENTO. No questions.

Chairman ST GERMAIN. Mr. Wortley.

Mr. WORTLEY. No questions.

Chairman ST GERMAIN. Thank you very much.

Now we will ask the next panel to approach the witness table: Mr. Howard Sloane, president, New York Coliseum Exhibition Corp. of New York, on behalf of the President's Export Council; Mr. Lawrence Fox, vice president for the International Economic Affairs, National Association of Manufacturers; Mr. John Liebman, legislative chairman, Export Managers Association of California; and Mr. Wayne Moore, president and chief executive officer, Moore

Special Tool Co., Bridgeport, Conn., on behalf of the National Machine Tool Builders Association.

Gentlemen, we want to initially thank you for your patience. And second, thank you for submitting your statements ahead of time so that they might be reviewed. Third, we shall, without objection, place your entire statements in the record. And fourth, we shall proceed in the order in which I called the names off.

And we will ask Mr. Howard Sloane to proceed at this time. If you would like, you may read your statement or summarize, whichever you are more comfortable with.

STATEMENT OF HOWARD G. SLOANE, CHAIRMAN, LIAISON SUBCOMMITTEE, PRESIDENT'S EXPORT COUNCIL

Mr. SLOANE. I will summarize very briefly.

First of all, I believe Secretary Baldrige covered the subject very thoroughly, and I do not find anything to quarrel with in what he said. I will try not to repeat it.

We have clearly outlined the urgency of expanding exports. Exports do mean jobs, whether they mean 32,000 jobs per billion or 35,000 or 40,000 jobs. We certainly agree that job opportunities are what we are talking about.

Our competitive position in the world marketplace certainly must be improved. I think we would all agree that a 9-percent unemployment rate is not acceptable. And if in fact we could increase our exports by the 5 percent that Secretary Baldrige has referred to, it would effectively add at least 400,000 jobs.

The trend over the last two decades is totally unacceptable. We have a shrinking share of world trade, growing trade deficits. Our productivity growth is lacking on a worldwide scale. And tragically, we are even losing vast segments of our domestic market to imports.

Being a New Yorker, I was saddened to note that we are buying Japanese subway cars because they are providing us with financing—which is not available to the Budd Corp., I might add.

This export trading company legislation, by its various names including the S. 734, all represent an imaginative, progressive, bold recognition by our Government that our exporters do need help. The export problem has two edges, as you know, Mr. Chairman: One is market access; and the other is tools. And certainly, the export trading company legislation is an effective tool. It will not grant us market access, which is a separate problem.

Your H.R. 6016 addresses, I believe brilliantly, the banking aspect. As you recognize full participation by the banking community in providing financing and export services is absolutely essential if we are to attract the small- and medium-sized exporter who could export but does not.

As chairman of the subcommittee of the President's Export Council, I was asked to inquire of a broad sector of the business community as to what the No. 1 problem in exporting was. And without exception, it is: financing, without which they cannot export.

I believe that your bill as proposed, Mr. Chairman, represents a reasonable approach to the twin concerns which we share of bank

safety and encouraging, of course, exports. I think your concept of a single bank regulatory authority, the Board of Governors of the Federal Reserve System, will certainly insure consistent standards.

I would certainly agree, too, that by limiting the percentage of capital and surplus that can be invested, you have protected the depositor against inordinate risk. And we applaud your concerns and your solutions.

I should like to voice—and I will not repeat the Secretary's testimony—but there are two small areas of concern. As I said, we are talking about the small- and medium-size companies who could export. We have effectively excluded the small and regional banks who have not established Edge Act corporations or bank holding companies from participation. And I would only suggest that we look into this problem and see if there is not some way, as the Secretary has suggested, that we can include those small- and medium-sized banks in the ETC.

The other aspect has been export exclusively. And I am not going to go into the semantics of the word "exclusively." Certainly, we can find some adjective which will solve the problem without too much complication.

Thank you very much, sir.

[Mr. Sloane's prepared statement follows:]

STATEMENT OF

HOWARD G. SLOANE

CHAIRMAN, LIAISON SUBCOMMITTEE

OF

THE PRESIDENT'S EXPORT COUNCIL

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS,

SUPERVISION, REGULATION AND INSURANCE

COMMITTEE ON BANKING,

FINANCE AND URBAN AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

APRIL 21, 1982

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

THANK YOU FOR THE OPPORTUNITY TO APPEAR HERE TODAY. BOTH SECRETARY BALDRIGE AND CHAIRMAN ST. GERMAIN HAVE CLEARLY OUTLINED THE URGENCY OF EXPANDING EXPORTS. EXPORTS MEAN JOBS -- 32,000 JOBS FOR EVERY BILLION DOLLARS OF EXPORTS.

IF WE ARE TO EXPAND JOB OPPORTUNITIES, OUR COMPETITIVE POSITION IN THE WORLD MARKETPLACE MUST BE IMPROVED. A 9% UNEMPLOYMENT RATE IS NOT ACCEPTABLE TO ANY OF US. THE TRENDS OF THE LAST TWO DECADES -- OUR SHRINKING SHARE OF WORLD TRADE, OUR GROWING TRADE DEFICITS, OUR LAG IN PRODUCTIVITY GROWTH -- EVEN THE LOSS OF VAST SEGMENTS OF OUR DOMESTIC MARKET TO IMPORTS -- MUST BE REVERSED.

THE EXPORT TRADING COMPANY LEGISLATION -- i.e. H.R. 1799, or H.R. 1648, OR THE SENATE PASSED VERSION -- S 734 -- ALL REPRESENT AN IMAGINATIVE, PROGRESSIVE, BOLD RECOGNITION BY OUR GOVERNMENT THAT OUR EXPORTERS NEED HELP. AMERICAN BUSINESS NEEDS NEW TOOLS TO EFFECTIVELY EXPAND AND PENETRATE EXPORT MARKETS ABROAD. WE MUST GET ON WITH THIS BUSINESS. WE CANNOT DELAY.

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THE EXPORT TRADING COMPANY LEGISLATION ADDRESSES TWO AREAS IN WHICH WE ARE AT A COMPETITIVE DISADVANTAGE WITH OUR TRADING PARTNERS IN EXPORTS -- U.S. ANTITRUST LAWS, AND BANK PARTICIPATION.

YOUR H.R. 6016 -- KNOWN AS THE "BANK EXPORT SERVICES ACT" -- ADDRESSES BRILLIANTLY THE BANKING ASPECT. AS YOU RECOGNIZE, FULL PARTICIPATION BY THE BANKING COMMUNITY IN PROVIDING FINANCING AND EXPORT SERVICES IS ESSENTIAL.

ONE OF THE FIRST ACTIVITIES OF THE LIAISON SUBCOMMITTEE, WHICH I CHAIR, OF THE P.E.C. WAS TO ASK A BROAD SECTOR OF THE AMERICAN BUSINESS COMMUNITY FOR THEIR INPUT ON EXPORT EXPANSION. THE NUMBER ONE PRIORITY WAS THE NEED FOR EXPORT FINANCING.

H.R. 6016 -- AS YOUR CHAIRMAN HAS STATED -- REPRESENTS A REASONABLE APPROACH TO THE TWIN CONCERNS OF BANK SAFETY AND ENCOURAGING THE FLOW OF EXPORTS. FIRST, THE ESTABLISHMENT OF A SINGLE BANK REGULATORY AUTHORITY -- THE GOVERNORS OF THE FEDERAL RESERVE SYSTEM -- WILL ENSURE CONSISTENT STANDARDS. BY LIMITING THE PERCENTAGE OF CAPITAL AND SURPLUS THAT CAN BE INVESTED, YOU HAVE FURTHER PROTECTED THE DEPOSITOR AGAINST

INORDINATE RISK. WE APPLAUD YOUR CONCERNS AND SOLUTIONS.

THERE IS ONE VITAL AREA WITH WHICH THE BILL DOES NOT, IN MY OPINION, EFFECTIVELY DEAL.

AS YOU KNOW, OUR GREATEST POTENTIAL FOR EXPORT GROWTH IS THE SMALL OR MEDIUM-SIZED COMPANIES WHO -- GIVEN THE TOOLS -- COULD EXPORT.

YOUR H.R. 6016 EXCLUDES REGIONAL AND SMALL BANKS BECAUSE THEY HAVE NOT ESTABLISHED AN EDGE ACT CORPORATION OR ARE NOT PART OF A BANK HOLDING COMPANY. THESE ARE THE VERY BANKS THAT A SMALL OR MEDIUM-SIZED BUSINESS WOULD SEEK OUT. PERHAPS THE TESTS SHOULD BE COMPETENCE, AND SUBJECT TO APPROVAL BY THE REGULATORY AGENCY.

FINALLY, AN EXPORT TRADING COMPANY SHOULD NOT BE CONFINED "EXCLUSIVELY" TO EXPORTS. TRANSACTIONS ARE OFTEN A TWO-WAY STREET. A TRADING COMPANY MUST ON OCCASION ENGAGE IN COUNTERTRADE. PERHAPS WE COULD FIND A MORE FLEXIBLE WORD THAN "EXCLUSIVELY."

THE EXPORT TRADING COMPANY LEGISLATION IS THE FIRST PRIORITY OF THE PRESIDENT'S EXPORT COUNCIL. IT IS ALSO THE FIRST PRIORITY OF A LARGE SEGMENT OF THE BUSINESS COMMUNITY. IT MUST BE BROUGHT FORWARD AND ENACTED INTO LAW AT THE EARLIEST POSSIBLE MOMENT.

THANK YOU.

Chairman ST GERMAIN. Thank you, Mr. Sloane.

Now we will hear from Mr. Lawrence Fox.

STATEMENT OF LAWRENCE A. FOX, VICE PRESIDENT FOR INTERNATIONAL ECONOMIC AFFAIRS, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. FOX. Thank you, Mr. Chairman.

With your permission, I will summarize my testimony if you would make the full text part of the record.

Chairman ST GERMAIN. That has been done.

Mr. FOX. I am vice president of the National Association of Manufacturers for international economic affairs. We are very grateful to appear before your committee today. And we certainly commend you for your initiative with respect to the bill you have introduced, H.R. 6016, to help create the legal environment necessary for the effective functioning of export trading companies. And we commend the step that you have taken now, which I am confident will help secure passage of the export trading company legislation.

You observed, Mr. Chairman, in a recent statement in the Congressional Record of March 31 that, "Our economy now depends on a major shift from reliance on domestic sales to a mix of domestic and foreign sales."

I could not agree more with that statement. The fact is that in recent decades world trade has been growing faster than domestic GNP. That is true for most of the industrialized countries of the world, and it is certainly true for the United States. We saw a threefold increase in our nominal GNP from 1970 to 1981. The 1981 value of U.S. trade—that is, exports plus imports—was six times that which it was in 1970. That is double the growth in GNP.

A point to be made in any commentary on our trade problem, as exemplified by our trade deficit last year of $27.6 billion, is that we can no longer explain it simply in terms of higher oil prices. Our most important competitors, Japan and Germany, are both forced to import relatively far greater proportions of their energy requirements than are we. Both have been running trade surpluses, while we have been running deficits.

At the National Association of Manufacturers, of course, our special concern is the manufacturing sector. Here the trend is, I regret to say, inauspicious. A paragraph from a recent Conference Board paper illustrates the point well, and I quote:

> The rise in 1981 imports was almost entirely attributable to higher imports of manufactured goods in this, the largest and most important U.S. trade category, accounting for two-thirds of total exports and over half of imports. The trade surplus declined from $18.8 billion to $5.3 billion.

Our trade problems cannot be solved by just trying harder. The maintenance of our international standing as a preeminent industrial power and of our standard of living requires that we adjust our institutions and our laws in response to the realities we confront.

Chairman St Germain has noted that some of the solutions are "difficult, expensive, and long-range in nature." This is less true of the initiatives like ETC legislation than of other proposals to enhance U.S. competitiveness.

The fact that our political and budgetary constraints may force us to postpone other measures only increases the importance of moving forward on H.R. 6016 and associated export trading legislation as quickly as we possibly can.

Before commenting on certain details of H.R. 6016, I think it is important to note some of the advantages we already reap from exports, advantages of which an expanded export sector further multiplies.

These are particularly obvious in the area of job creation. A recent Commerce Department survey points out that U.S. private sector employment directly related to the export of manufactured goods increased by 47 percent in the period 1977 to 1980. In other words, exports accounted for 1.5 million, 30 percent of the net increase in private sector jobs created in this period.

State-by-State analyses are also impressive. In Rhode Island 83 percent of the net increase in private sector jobs created in the 1977-to-1980 period derived from exports. In New York, 84 percent. In Wisconsin, 52 percent.

In my prepared statement I have commented on the potential for increased exports and export-related employment directly related to the passage of ETC legislation. As you know, Mr. Chairman, vital work in this area has been done by the New England Congressional Institute, as this morning's testimony has indicated. The passage of H.R. 6016 would clearly help to turn that potential into actual benefits.

Mr. Chairman, my confidence on that point is very much strenghtened by the fact that H.R. 6016 makes it possible for bank holding companies and Edge Act corporations to own export trading companies rather than simply investing in them.

We believe, however, that with some modification, it could be done even more effectively. In our view, H.R. 6016 would be stronger if it did not confine the activities of export trading companies to exporting. Traders are not manufacturers—under this legislation they are not allowed to be. And they will need to buy as well as sell abroad if they are to thrive.

There are four other areas in which we think modification would improve the bill.

First, we believe that ETC's will be more attractive both to their customers and to investing banks if they are allowed to engage in insurance as well as the other services specified in H.R. 6016.

Second, it would be helpful if, in addition to the 5 percent of capital and surplus that bank holding companies and Edge Act corporations are permitted to invest in an ETC, these organizations could be allowed to lend a similar amount to ETC's in which they have invested. This, as you know, is permitted in Senate bill S. 734, which, of course, NAM has supported.

Third, the export trading company option would probably be more attractive to bank holding companies and Edge Act corporations if their ETC subsidiaries could use names similar to those of their parent organizations.

And fourth, we wonder if it is necessary for the Federal Reserve to approve all bank holding company and Edge Act corporations investments in ETC's. Might it not be possible to permit investment

without Federal Reserve preclearance below some threshold amount; for example, $10 million, as in S. 734?

I am sure the chairman and members of the subcommittee are aware that S. 734 permits several different types of banking institutions to invest in export trading companies, including depository institutions. That legislation continues to express our own preference in this area.

That is not to say, however, that we do not appreciate the concerns which have led you to restrict banking investment in ETC's to bank holding companies and Edge Act corporations in drafting H.R. 6016.

We would suggest, however, that smaller banks, those without bank holding companies or Edge Act corporations, might be allowed to participate indirectly in ETC investment through bankers banks or possibly through some other means which could be developed as a result of these hearings and through subsequent discussion.

We believe the suggestions we have made would make export companies more effective in promoting exports and would do so without significant risk to individual banks or to the national banking system in general.

I would conclude, Mr. Chairman, by saying that we thank you and the subcommittee for the opportunity to appear and to express our sincere appreciation for the leadership which you have shown in moving this important legislation forward at this time. Thank you.

[Mr. Fox's prepared statement, on behalf of the National Association of Manufacturers; Chairman St Germain's May 4, 1982, letter containing a summary of H.R. 6016 issues and requesting comment; and Mr. Fox's response dated May 4, 1982, follow:]

National Association of Manufacturers

STATEMENT

OF

LAWRENCE A. FOX

ON BEHALF OF

THE NATIONAL ASSOCIATION OF MANUFACTURERS

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

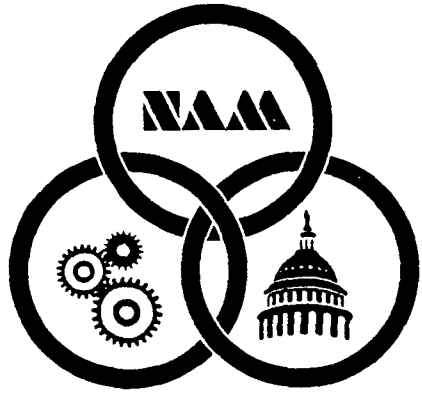
SUPERVISION, REGULATION AND INSURANCE

OF THE

COMMITTEE ON BANKING FINANCE AND URBAN AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

APRIL 22, 1982



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STATEMENT

OF

LAWRENCE A. FOX

ON BEHALF OF

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BEFORE THE

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OF THE

COMMITTEE ON BANKING FINANCE AND URBAN AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

APRIL 22, 1982

Mr. Chairman, members of the Subcommittee, I am Lawrence A. Fox, Vice President for International Economic Affairs of the National Association of Manufacturers. Our manufacturing and banking members span the gamut of commercial activity related to manufactured goods. Our manufacturing members account for approximately 80% of U.S. industrial output and 85% of U.S. industrial jobs.

We are grateful for the opportunity to testify today because we feel strongly that the export trading company concept and the Bank Export Service Act, H.R. 6016, which you, Mr. Chairman, have introduced, can contribute significantly toward an improvement in the international trade position of the United States.

U.S. Trade Performance

The 1970s were years of frustration and disappointment for our country insofar as international trade is concerned. We ran our first trade deficit of the 20th Century in 1971 and with the exception of 1975 have been in deficit every year since. The up-turn in 1975 was an anomaly. A recession here at home cut our import demand while the economies of Europe were in a happier phase of the business cycle. The result was one trade surplus in a decade of deficits. The public was for a while under the false impression that our trade deficits were due almost entirely to the dramatic increases in oil prices achieved by OPEC in 1973-74 and then again, even more dramatically, in 1979.

In the past few years, however, it has become evident that our problems are more serious and more fundamental. They cannot be explained by OPEC actions alone. Germany and Japan, for example, are both more dependent upon foreign oil imports than the United States. Germany imports approximately 60% of the primary energy products she uses and Japan imports 90% of hers. Yet these countries have managed to pay their energy import bills, indeed they have consistently managed surpluses in their trade accounts during the period in which the United States has been in deficit. They have done so in part by displacing American-made manufactured goods in the markets of the world, including of course in the largest single slice of the world market, the United States.

In many ways, they and some of our other rivals have proven themselves better exporters than we. That is part of the explanation for the drop in our share of the world market for manufactured goods.

From 18.4% in 1970, it went to 16.4% in 1980. This also explains why, though exports as a percentage of U.S. GNP have increased over the past decade, imports have increased even faster. Exports went from 4.3% in 1970 to 7.8% in 1981, but imports went from 4.1% to almost 9%, 9.4% on a cost, insurance and freight basis in the same period.

Why We Need Trading Companies

I would be the last to assert that all of these developments can be traced to the fact that our trading partners have been better able to utilize international trading companies. But it is true that many of them have. Trading companies have contributed more to the enhanced international competitiveness of rival trading nations than they have to our own. This in large measure is due to the fact that trading companies have been more restricted here than in other countries and less able to assist small and medium sized firms to export.

It concerns us that less than one percent of U.S. firms account for more than 80% of U.S. exports. Statistics like this are worrisome for two reasons. First they mean that U.S. firms and the U.S. economy as a whole are not reaping the full benefit of the potential market for their products; many are simply ignoring that portion of their market that lies outside the United States. Second, such statistics suggest that many U.S. companies, by not exporting, are remaining dangerously unaware of the growing competitive strength of foreign companies that may one day challenge them in the United States. We are all familiar with cases in which this has happened. In a sentence, one has to meet the competition to stay ahead of it or even keep abreast of it.

Export trading companies have the potential of making the barriers to exporting less expensive to potential exporters, thereby making the export market an attractive one for a larger segment of American industry.

It has been said more than once that the export trading company legislation will not solve the trade problem. That is true, but it is important to realize both what exports do for our economy as a whole and what ETCs can do for exports.

According to a recently released Commerce Department survey one out of every seven manufacturing jobs in America is related to exports. From 1977 through 1980, U.S. private sector employment directly related to the export of manufactured goods increased by 47%. Rephrased, exports accounted for 1.5 million or 30% of the 5.2 million private sector jobs created in that period.

State by state analyses are also impressive. In Rhode Island 83% of the net increase in private sector jobs created in the 1977-80 period derived from export sales; in New York 85%; in Wisconsin 52%.

I am sure the Chairman is familiar with the New England Congressional Institute's survey on export trading companies. This suggested that ETCs would increase New England exports by $500 million within five years of the passage of ETC legislation. Further work by Chase Econometrics suggests that the figure for New England might be as high as $2.5 billion and that in five years ETC legislation could account for 280,000 to 340,000 new jobs nationwide, increase GNP by $27 to $55 billion, and reduce the Federal deficit by $11 to $12 billion.

Personally, I am quite skeptical of estimates of this kind. I do not think one can reliably predict the magnitude of the effect that legislation such as this can have. I am, however, confident that that effect will more than justify the changes in the law that we are discussing today.

It is for these reasons that NAM has consistently supported export trading company legislation since the introduction of the first export trading company bill in 1979. We believe that to be truly successful export trading company legislation will need to address limitations, inhibitions and uncertainties associated with export trading companies in both the banking and antitrust areas.

Banking Provisions

However much we would like to see modifications in both areas of law in a single package, we appreciate that each of the committees of the House to which the general subject of export trading companies has been referred has its own special responsiblities. We have submitted to the responsible subcommittee of the Judiciary Committee a statement outlining our views on the antitrust issues that are part of the general problem of how one goes about making export trading companies more attractive business enterprises. I shall confine myself today to a discussion of the banking issues, specifically those raised by the Chairman's bill, H.R. 6016. I would begin with the observation that the introduction of this bill, H.R. 6016, has given considerable legislative momentum to the export trading company concept. If export trading company legislation is signed into law this year, and we very much hope it will be, it will be largely due to your leadership, Mr. Chairman.

The problem inherent in this or any legislation is to create law appropriate to the goals to be accomplished. If the creation of a legal environment more conducive to the growth of export trading companies is the goal, as we believe it should be, then H.R. 6016 is certainly a useful and appropriate legislative tool. We believe, though, that some modification would make it a better one.

The core objective of this bill and of the Senate Export Trading Company Act is an increase in the number of firms, especially small and medium sized firms, involved in exporting and by extension an increase in U.S. exports overall. This being so, it is thoroughly understandable that the bill should limit its definition of export trading companies to entities whose operations are confined "exclusively" to export activity. Understandable as it may be, we think it is a mistake. As we understand it, the legislation is not about selling agents or even separate selling companies, it is about trading companies. Traders are not manufacturers, -- under this legislation they are not allowed to be -- and many will need to buy as well as sell abroad if they are to thrive.

It is probably not the nature of our society to produce the very large trading companies that are responsible for so much of Japan's trade. Still to some extent the Japanese models have fueled the idea that the United States can and should do better in exploiting export trading companies. It is therefore worth remembering that the nine largest Japanese trading companies or sogo shosha are responsible for roughly 50% of all Japanese trade, not just exports. Indeed they handle approximately 10% of U.S. exports.

With these considerations in mind, we would suggest that a slightly less restrictive definition of "export trading company" in

H.R. 6016 would make it a better bill. As you know, some of the legislative proposals in this area define export trading companies as organizations "operated principally for the purpose of ... exporting goods and services produced in the United States." The merit of this approach is that it keeps within the statute the sense of purpose it ought to have without denying the trading companies of the future the freedoms essential to their success.

Conceptually this provision is different from other aspects of the bill we would like to discuss because it relates directly to the character of the trading company rather than the operations of those banking organizations that can be expected to invest in trading companies.

It is of course for the banking community to provide technical advice respecting those aspects of H.R. 6016 that directly affect banking practice. I have already explained the stake that American manufacturing has in this legislation. It is obvious to us that it will only be a success if it enjoys the support of the banking community, both in its legislative phase and in practice. Thus, as representatives of American manufacturers, we cannot be indifferent to the way in which the banking interests are likely to view the bill in the months and years ahead.

We believe they will welcome the proposal to increase the proportion of their funds that depository institutions may invest in bankers' acceptances from the current 50% of capital and surplus to 150% or 200% with the approval of the Federal Reserve. We appreciate that this change in the limits associated with the amount of resources that banks can devote to bankers acceptances relates to the use of these instruments in domestic as well as international commerce. The ability to finance exports is now often the determining factor in the ability to export at all. Bankers' acceptances are not the

solution to our export finance problems, but to the extent that this change expands the credit available for export finance, it is welcome. It should be especially welcome for the small and medium sized companies that the export trading company concept is designed to serve.

Another feature of H.R. 6016, one more central to export trading companies, deals with the quantity and character of the investments made possible by this legislation. Many bank holding companies, concerned about the risks of export trading companies, may well refrain from investing unless they can do so under terms which give them control over the ETC. The ability of bank holding companies to own rather than simply invest in export trading companies is, therefore, critical to the success of this legislation as a part of America's export policy. We were pleased to have our reading of H.R. 6016 confirmed in the section-by-section analysis that accompanied the Chairman's letter inviting us to appear today. This analysis explains that under Section 2 of H.R. 6016, "Export trading companies could be owned wholly or in part by one or more bank holding companies or by one or more Edge Act corporations."

There are, however, other policies implicit in the language of H.R. 6016 that I hope the Committee will consider further. These relate to:

1. the services export trading companies are authorized to carry out;
2. the relative size of the investments permitted by the legislation;
3. the names that may be used by export trading companies; and
4. the character of the regulatory control.

Let me deal with each of them in turn.

Whereas the Senate bill, S. 734, includes insurance among the services that can be performed by export trading companies, H.R. 6016 does not. We do not fully understand why this change has been made. It has long been the view of those who support the export trading company idea that the more nearly an export trading company could approximate a one-stop, comprehensive export service, the more valuable it would be to American exporters. This is the principal reason for our belief that insurance should be among the export services in which ETCs are allowed to engage. The other advantage of an insurance provision, of course, is that it makes ETCs more attractive investments for banking organizations, that is bank holding companies and Edge Act corporations. As I have said already, it is because we believe that banks can make an important contribution to export trading companies and so to exports that we would like to see the ETC option made as attractive to banks as prudence will permit.

As for the limits on the amounts banks may invest in or lend to ETCs, it is an area in which differences were bound to arise. Mindful that the Federal government support though the Economic Development Administration and Small Business Administration contributions to ETCs, contemplated in other versions of the legislation, is not likely to be forthcoming, at least not in the forseeable future, we hope that the Committee will be as generous as it can be in providing scope for bank holding company and Edge Act corporation financing of ETCs. Fruitful investments and increased exports would flow from the enactment of H.R. 6016 in its present form. A good deal can be done with investments equal to the 5% of the capital

and surplus of bank holding companies (25% for Edge Act corporations). A formula like the 5% formula of S. 734 that permitted these banking organizations to lend a percentage of their capital and surplus to the ETCs in which they have invested would nevertheless be preferable.

A related but separate matter has to do with the restrictions on lending to affiliates, the so-called 23A restrictions, which are a part of H.R. 6016. Insofar as these relate to bank holding companies, we have no comment on them. Our understanding, however, is that H.R. 6016 extends these limitations to wholly owned Edge Act subsidiaries, which heretofore have been exempt from 23A restrictions. Such a restriction would have the anamalous and undesirable effect of limiting the flow of capital to those Edge Act subsidiaries that are export trading companies. We hope the Committee will not single out the ETC holdings of Edge Act corporations in this way.

As to the other issues mentioned, we favor allowing ETCs that are subsidiaries of banking organizations to use names similar to those of their parent companies. Also, there is something to be said for allowing banking organizations to invest in ETCs without the explicit approval of the Board of Governors of the Federal Reserve so long as those investments are below some reasonable threshold. Yet on balance it is not our judgment that the decisions on these points are critical to the value of the bill.

The same characterization may perhaps also be true of the most fundamental difference between H.R. 6016 and S. 734 passed by the Senate just a year ago. Still this difference deserves comment. The Senate bill offers many different kinds of banking entities the opportunity to invest in export trading companies. H.R. 6016 on the other hand permits only bank holding companies and Edge Act corporations

to make these kinds of investments. NAM has supported the approach of the Senate bill for the past three years, and that bill continues to express our preferences in this area.

Let me be clear: H.R. 6016 is in our view an extremely important bill whose passage would clearly enhance our nation's international competitiveness.

It would be a better bill if fewer banks were excluded from participation in export trading companies. We appreciate that it may be the judgment of the Subcommittee that the strength of the banking system as a whole requires that small banks, those without holding companies or Edge Act corporations, refrain from direct participation in ETCs. If that is the case, we wonder whether it might not sitll be possible to allow the smaller banks to invest indirectly in ETCs through bankers' banks.

Again I should like to thank the Chairman and the Subcommittee for this opportunity to testify and to express our sincere appreciation for the leadership you, Mr. Chairman, have shown in moving this important legislation forward at this time.

FERNAND J. ST GERMAIN, R.I., CHAIRMAN
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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS

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May 4, 1982

Mr. Lawrence A. Fox, Vice President for
International Economic Affairs
National Association of Manufacturers
1776 F Street, N. W.
Washington, D. C. 20006

Dear Mr. Fox:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

In addition to any comments on the foregoing summary, which you may care to make, the Subcommitee will appreciate your response to the following questions based upon your testimony:

1. Some witnesses on April 22 expressed a desire to modify H.R. 6016's prohibition against export trading companies to engage in manufacturing, in order to allow small exporting companies that engage in some "minor product modification" to be included in the bill. Examples given of such "minor product modification" would be to allow exporting companies to modify electrical appliances to conform with overseas voltage requirements and to allow the repackaging of goods with foreign language instructions. Do you feel that more flexibility is needed here, rather than including a prohibition against export trading companies engaging in any manufacturing? NAM suggestions will be particularly helpful.

2. There is some question as to whether export trading companies should be permitted to take title to goods. The fear is that such companies could corner the market on certain exportable items by being able to take title while others argue that this is a necessary activity.

-Is the above expressed fear that some ETCs could corner the market on goods, if given this power, realistic? Please explain.

-Should ETCs explicitly be allowed to take title to goods, and if so, should this be expressed in the statute or by regulation?

-On the other hand, does caution dictate that this activity not be allowed, or that the Federal Reserve Board be given the right to prohibit such activity, in certain instances, by regulation?

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain
Chairman

Enclosure

National Association
of Manufacturers

LAWRENCE A. FOX
Vice President and Manager
International Economic Affairs Department

May 17, 1982

The Hon. Ferdinand St. Germain
Chairman
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
2129 Rayburn Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. St. Germain:

In response to your letter of May 4, I should first like to compliment you on the leadership you have shown on the export trading company issue. Your Bank Export Services Act, H.R. 6016, could well prove to be watershed legislation and an important contribution to America's international competitiveness. I was glad to be able to testify before your Subcommittee on this legislation, and as a result of your work, I am much more optimistic about the prospect of an export trading company bill being signed into law this year.

Your letter provided a useful list of the outstanding issues associated with the Bank Export Services Act. For the sake of completeness I have reviewed each of these points below, though in several instances I am only summarizing comments made in my testimony

Summary of NAM Comments on
H.R. 6016 Issues

1. As I indicated in my testimony, we believe that mechanisms for participation in export trading companies (ETCs) by non-bank holding company banks should be explored. The investment opportunities that H.R. 6016 creates for bank holding companies and Edge Act Corporations will greatly enhance the potential role of export trading companies. We suspect, however, that even more U.S. companies will benefit from ETCs if some of the smaller banks are allowed to participate. I suggested in my testimony that allowing bankers' banks to invest in ETCs might meet this objective. I should be clear, however, that the essence of our suggestion is that something be done in this area not that a particular approach be adopted.

2. We feel certain that banking organizations will view export trading companies more enthusiastically if the ETCs they own or control are permitted names similar to those of the

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investing banking organizations. It is not unreasonable to expect a somewhat higher level of sophistication from ETC users and investors than could be expected from the public at large. Specifically, members of these groups should be able to differentiate between ETC investors such as bank holding companies and the ETCs they own. Indeed people in these groups will often want to know whether a particular ETC is connected in any way with a banking organization. Permitting ETCs names similar to those of their principal banking organization investors is perhaps the most straightforward way of disclosing this connection.

3. Our most serious criticism of H.R. 6016 as currently drafted involves the "exclusively" requirement. The nature of ETCs is such that to succeed at exporting they must be able to do more than export. Like their counterparts in other countries, American ETCs need to be able to import, engage in third country trade and counter-trade as well as export if they are to thrive. Because these abilities are essential features of export trading companies, we believe that the authority establishing them should not be left entirely to regulation but should be explicit in the law itself. As you know Senate bill S. 734 deals with this problem by defining ETCs as being operated, "principally for the purpose of (A) exporting goods and services produced in the United States..." (emphasis added). This in our view is a satisfactory approach to the problem.

4. We understand the Subcommittee's concern that ETCs not become a means for banking organizations to invest in manufacturing enterprises in ways that are not now permitted. The Subcommittee has heard testimony on the desirability of permitting ETCs to do some processing and/or modification of the products they sell abroad. We believe it should be possible through regulation to provide ETCs with flexibility to make minor product modifications while at the same time preserving the separate integrities of banking and manufacturing organizations. Assume, for example, that several manufacturers were to join with a bank in establishing an export trading company for the purpose of exporting various products, including some of the products of the investing companies. In that case, it could well be that the ETC itself would be the most logical provider of certain packaging and product modification services.

5. As indicated in my testimony, we see some advantage in a formula that permitted bank holding companies and Edge Act Corporations to lend a percentage of their capital and surplus to the ETCs in which they have invested.

6. The ability to take title is central not only to ETCs themselves but to their ability to help small and medium sized companies exploit foreign markets. We would therefore recommend that the right to take title be explicitly acknowledged in the law. If the ETC can take title, then for those who sell to it the foreign market is no more distant or forbidding than the customer ETC. It also makes export sales easier to finance. Writing in the April edition of the NAM magazine Enterprise John Boles points out that, "Most U.S. banks are unwilling to finance smaller manufacturers's foreign receivables, the trading company's intervention converts the manufacturer's sale to a domestic receivable, which banks will finance."

   As to "the fear that some ETCs could corner the market on goods" if allowed to take title, we feel this is adequately dealt with by the antitrust constraints of S. 734 and H.R. 1799, constraints which are not likely to be weakened by whatever language emerges from Chairman Rodino's Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee.

7. As to the 23A restrictions referred to in point 7 of your letter, I am not prepared to go beyond what we have already said on this. The relevant portion of my testimony reads as follows: "Our understanding...is that H.R. 6016 extends these limitations to wholly owned Edge Act subsidiaries, which heretofore have been exempt from 23A restrictions. Such a restriction would have the anamalous and undesirable effect of limiting the flow of capital to those Edge Act subsidiaries that are export trading companies. We hope the Committee will not single out the ETC holdings of Edge Act corporations in this way."

We do thank you for the opportunity to comment further on this important legislation. Like you, Mr. Chairman, we at NAM are committed to doing what we can to enhance America's international competitiveness and to increase U.S. exports. Accordingly, I hope you will let me know if we can be of assistance to you on this or any other matter.

Sincerely,

Lawrence A. Fox

Chairman ST GERMAIN. Thank you, Mr. Fox. I think I would like to make an observation here on some of the points that you brought up at the conclusion of your summary. You were present during the discussions with Secretary Baldrige and we had discussions with other witnesses this morning on some of them.

In the area—I have to assure you that the legislation was drafted in a very particular, specific manner that I feel makes it much more likely to move rapidly and, as a result thereof, you have to give a little bit as to what area of the law we amend and then in other instances, you know, I am sure, there are a lot of improvements that many would like to see occur—expansions, for example. However, that would mean a donnybrook and I do not think any of you are looking for a big fight.

We tried to draft legislation here that would not attract a great number of strong opponents and a great deal of opposition, and so while I appreciate the desires of many and certainly you are here to express them, please understand as well that the chairman of this committee attempts to draft legislation in such a manner that it will accomplish the goal—no legislation is ever perfect—but accomplish the purpose and become enacted.

Mr. Fox. Thank you very much, Mr. Chairman, and we support your bill. My suggestions, in a sense, are for the record for maybe some future date when it might be possible to consider further amendment after we have had a successful experience with export trading companies and your banking provisions.

We very much support the step you have taken and I think we appreciate your legislative sagacity in the way you drafted the bill.

Chairman ST GERMAIN. Thank you. Now we will hear from Mr. Wayne Moore of Bridgeport, Conn. Oh, I am sorry. Excuse me. Mr. Liebman, Mr. John Liebman. I am very sorry. I am trying to get away without wearing my glasses.

STATEMENT OF JOHN R. LIEBMAN, LEGISLATIVE CHAIRMAN, EXPORT MANAGERS ASSOCIATION OF CALIFORNIA

Mr. LIEBMAN. We are delighted to be here today and I must say that we watched with great interest the progress that this legislation has made over the last couple of years. As you may note, our formal statement that was previously submitted only averted to H.R. 1648 and 1799. It was not really until the last couple of days that we were provided with a copy of H.R. 6016, but my comments in the formal statement related generally to, I think, this bill that you, Mr. Chairman, have introduced. My comments now will relate specifically to H.R. 6016.

I am here today on behalf of the Export Managers Association of California. It is commonly called EMAC. It is a nonprofit trade association headquartered in Los Angeles comprising close to 400 exporting manufacturers, export management companies, or EMC's, shippers, freight forwarders, and professional export trade consultants.

I think a brief word regarding EMC's, or export management companies, is appropriate at this time. An EMC is an independent marketing organization which acts much like a typical domestic marketing company, either buying or selling for its own account or

acting as a commission agent for U.S. manufacturers which for many reasons, some of which have been discussed here today, cannot or choose not to engage in direct exporting themselves.

The export management company relies upon its ability to identify and establish foreign markets for these suppliers and efficiently processing data for those markets. Generally the export management company is staffed by multilingual, experienced professionals skilled in adapting U.S. products to foreign markets and perhaps most importantly assume the risks inherent in marketing those products abroad—risks which the domestic manufacturers, particularly the small ones in the heartland of America, have been unwilling or unable to assume.

The EMC, therefore, properly can be perceived as a true export trade multiplier since it in effect makes exporters out of U.S. firms not presently exporting, bringing foreign markets to their doors.

The EMC, accordingly, we feel, is the logical participant with our banks in the contemplated export trading company which this committee is considering. The EMC, in short, is an export trading company, but unfortunately most of the EMC's we have with us today are too small and have too thin a capital base upon which to build the kind of export trade this country so desperately needs.

Nonetheless, EMAC members, most of whom, as I said, are small entrepreneurial export management companies, account directly for more than $500 million annually in U.S. exports and the number is growing. EMAC has consistently and does now support the enactment of legislation which, among other things, will enable U.S. banking institutions to participate more actively and meaningfully in the U.S. export expansion effort without completely removing the traditional insulation of banking activities from commercial activities.

As you pointed out on March 31, Mr. Chairman, this indeed is the goal of H.R. 6016. If the bill is to achieve its purpose, however—and I am mindful of your remarks, Mr. Chairman, regarding presenting the least profile for attack for this legislation—we feel we should bring to the committee's attention those facets of the bill which we as the exporting community perceive as possibly troublesome and which perhaps could stand a little modification.

I think our goal in this regard is to establish a legislative framework for export trading companies which is free from regulatory impediments and constraints which in the context of export trade activity are not realistic or, for public policy reasons, needed.

First, the bill imposes the requirement that all ETC investment by bank holding companies and Edge Act banks be approved in advance by the Federal Reserve Board. We feel that given the restriction of bank participation in ETC's to bank holding companies and Edge Act banks, such a sweeping requirement may be excessive and would echo Mr. Fox's suggestion that a threshold, either in terms of a percentage of interest acquired in an export trading company or an absolute dollar amount to provide a threshold, would be more realistic.

I would like also to mention the exclusivity of export requirement. You have heard today a number of witnesses discuss this, and I think overall we are in total agreement with them. We feel

that the requirement of exclusivity of export activities is not appropriate for a couple of reasons.

First, of course, the one that has been discussed here earlier, which is that many export management firms simply cannot function unless they are able to engage in countertrade, offset programs, or other bilateral or multilateral transactions entailing the importation of products into the United States or the marketing of non-U.S. products in third countries. Indeed, in some of the developing countries which present unusually sharp challenges to our marketing ability, this is the only way U.S. firms can establish market positions.

Second, many U.S. high technology exports incorporate foreign-produced components without which those finished products would simply not be competitive. We would urge the committee to delete this requirement, adopting instead a standard that the export trading company must garner a preponderance—that is another word—a preponderance of its gross receipts from export sales in any 3-year period, Mr. Chairman.

It should be noted that many or any ETC claiming DISC status would have to comply in any event with a much more stringent gross receipts test. However, in recognition of the possibility that an ETC could have a fiscal year unusually heavy in import transactions with years preceding and following preponderant in exports, we believe a 3-year preponderance test would be more suitable.

Finally, the bill omits any reference to insurance as one of the export service activities in which an export trading company could engage. Given the vital role played by insurance in export transactions and the close interdependence characterizing all export processes, we suggest that export trading companies be permitted to provide these services as well.

That completes the changes, Mr. Chairman, and incorporating other features not presently before the committee. We are confident that H.R. 6016 could become an extremely valuable charter for a whole new dimension of the U.S. export program.

A vast majority of EMAC's members, the entrepreneurial export management companies, already have the expertise and capability to assist U.S. industry to establish and enhance its overseas market potential and we are prepared to work with our banking community in a partnership in tapping that potential. Thank you very much.

[Mr. Liebman's prepared statement, on behalf of the Export Managers Association of California; Chairman St Germain's May 4, 1982 letter containing a summary of H.R. 6016 issues and requesting comment; and Mr. Liebman's response, dated May 17, 1982, follow:]

U. S. HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING, FINANCE

AND URBAN AFFAIRS

AND

FINANCIAL INSTITUTIONS SUPERVISION,

REGULATION AND INSURANCE SUBCOMMITTEE

HEARINGS ON EXPORT TRADING COMPANIES BILLS

APRIL 22, 1982

WASHINGTON, D.C.

TESTIMONY OF JOHN R. LIEBMAN

GENERAL COUNSEL OF EXPORT MANAGERS

ASSOCIATION OF CALIFORNIA, INC.

Mr. Chairman and Committee Members:

Thank you for allowing me to express our views concerning HR1648 and HR1799, the Export Trading Company Act of 1981. I appear today on behalf of the Export Managers Association of California, Inc., a nonprofit trade association representing more than 350 exporting manufacturers, export management companies, shippers and freight forwarders, and other export trade service groups and professionals. EMAC members (most of whom are "small business") directly account for at least $500 million of U.S. exports each year, and the number is growing.

I serve EMAC as its general counsel, a member of its Board of Directors, and chairman of its legislative committee. I also act as Chairman of the Southern California District Export Council, of which I have been a member since 1974, and am a long-standing member of the Western International Trade Group. My law practice involves the general and specialized representation of numerous California firms -- large and small -- deeply involved in export trade, along with representation of commercial trading interests from other parts of the world.

Our purpose today is to underscore the importance of trade, particularly export trade, to our national economy, and to lend assistance to the realization of a rational and coordinated export expansion program. California's business community maintains its concerns over prospects for this

legislation. Moreover, California is a major factor in any export expansion program. California is the gateway to the Pacific rim markets, accounting for nearly one-half of U.S. trade with those markets and accounting for the second largest volume in the country in international trade. If California were an independent nation, it would rank fifth largest in the world; eighth in terms of gross domestic product; and thirteenth in terms of international trade value. /1 Its exporters understandably view themselves as leaders of our national export expansion efforts.

Our Association participated in Senate hearings on this legislation last year and, while remaining totally committed to seeing this legislation through the present session of the Congress, has sharpened its views over the past several months. In consequence, our Association supports the enactment of legislation incorporating the following features:

1. Amend U.S. anti-trust laws that have discouraged development of ETCs and export trade associations;
2. Create incentives for greater participation by U.S. banking institutions in export financing, thus reducing the need for public sector funds, guarantees and subsidies;
3. Permit some U.S. banking institutions to assume equity positions in ETCs without regard to percentage ownership, provided such investment in one or more ETCs does not exceed 5% of that institution's capital and surplus;

4. Restrict bank investments in ETCs to bank holding companies and Edge Act Corporations, thereby insuring a separation between commercial bank lending functions and bank-sponsored exporting activities;
5. Establish uniform ETC regulatory procedures applied to nationals of this country and foreign nations, thereby insuring the inviolability of our mutual trade interests while promoting the attainment of our nation's export expansion policy objectives; and
6. Insure that no foreign owned ETC be eligible for ETC status unless similar U.S. interests enjoy the right of establishment in that country.

We address ourselves now to four prime issues in the context of this Bill: (1) comprehension of the export problem; (2) analysis of resources available to solve the problem; (3) the issue of bank ownership of export trading companies; and (4) the principle of reciprocity.

I. THE PROBLEM

The United States, until recently, has enjoyed the security of a seemingly infinite domestic market for goods and services while the importance of trade to our national economy all too often has been taken for granted. The time has come for a major reassessment and redefinition of our export trade policies. Over the past three decades, the U.S. share of the world market for manufactured goods has steadily eroded from

25% in the 1950's to 17% in 1970, declining to 12.2% in 1978. /2 Because imports have expanded since 1972 from a higher base than exports, our trade deficit has widened sharply to almost $160 billion over the last five years. /3 Thus, one of the critical challenges confronting this administration is export expansion.

Clearly, this country has not been exporting its full potential. Exports of U.S. goods comprised 8.2% of our GNP in 1980, the lowest percentage of GNP of any industrialized nation: compared with Germany - 23.3%; Italy - 19.8%; Netherlands - 42.8%; Canada - 26.4%; and the United Kingdom - 23.3%. /4 Translated into employment, tax revenues, and GNP figures, 1 percentage point of GNP not exported represents over $1 billion in lost trade; 40,000 fewer jobs; $2 billion less in U.S. GNP; and $400 million in Federal tax revenue losses.

U.S. imports of manufactured goods increased nearly four times faster than its exports since 1970, with that margin growing in the last half of this last decade. /5 West Germany, in fact, replaced the U.S. in 1970 as the principal and leading exporter of manufactured goods and services in world trade. Shortly thereafter, in 1971, the U.S. recorded its first merchandise trade deficit. Our industrial competitiveness and productivity has declined steadily as measured by increased import penetration here and loss of exports abroad. From 1966 to 1970, U.S. average productivity grew by only 1.2%. It was down 0.2% in

1969 and by 0.7% in 1970. In 1979, it declined at an annual rate of 0.9%. In 1980, it declined at an annual rate of 0.4%. /6

Adding to this dismal picture, the U.S. share of world markets declined from 21.3% to 17.4% over the past decade, the largest such decline among major industrial exporters. /7 While our trade in manufactured goods has remained roughly in balance, both Japan and Germany have achieved huge trade surpluses of $70 and $60 billion, respectively, to pay for increased petroleum costs.

There are those who complacently believe that the export position of the U.S. is not critical and that U.S. products will continue to be competitive in the world marketplace. They point to the U.S. as one of the few industrial countries with a surplus on current accounts at this time. /8 We submit that while a trade deficit is not necessarily evil, it is symptomatic of basic, if not chronic, economic flaws. In that regard, on a current account basis the U.S. experienced deficits in four consecutive years commencing with 1976. 1980 provided only brief respite in achieving an approximate balance of current accounts. This shift has been attributed to a 12% depreciation of the dollar, relatively slow economic growth in the U.S. dampening import demands, and the growth of export services in our overall trade position. Most economists, and Secretary Baldridge himself, predict a string of deficits as

we emerge from that momentary improvement into the 1980's. /9 In fact, Secretary Baldridge has indicated that while the nation's trade deficit narrowed to $3.12 billion in June, ". . . economic conditions portend a 'rough trade climate for the months to come.'" /10 A 1981 deficit is forecast of several billions of dollars more than the 1980's deficit of $36.4 billion. Already the first two quarters of 1981 have yielded a negative trade balance of $3.2 billion as imports have increased and exports have declined. Currently, while a strong dollar encourages greater imports, a lagging U.S. economy discourages them. Still, a resurging dollar has begun to slow foreign demand for exports by making them more expensive, thereby exacerbating the problem. Ironically, sound fiscal policies at home have added to our woes abroad.

Jacques La Larosiere, Director of the International Monetary Fund, in a speech on May 8, 1981 at the Commonwealth Club of California, pointed to a grim world economic picture: "GNP growth in industrial countries is down to 1-1/2% in 1981 and expected to grow by 2% in 1982." World trade, which grew by 8% in the 1960's and 5% in the 1970's will not provide the markets for Japan and Asia that it produced in the 1960's. /11 The slow-down in growth in the developed world is reflected in the diminishing exports of goods from Asia to developed countries. Low growth in world trade also affects developing countries that have to cut back on manufactured goods imports

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to manage the high costs of imported petroleum. They also are forced to export more to pay for their imported oil, thereby flooding markets with goods. There thus appears to be increasing pressure on the whole world to export more at a time when world markets are declining in growth, and a concomitant trend towards protectionist policies.

If we are to reverse this trend, we must reduce the role of imported oil in our overall trade position, reduce inflationary pressures on our economy, and improve our position in the world economy. Export expansion is a necessary step in this process. Indeed, part of the challenge that lies before us is to demystify and simplify export trade for the U.S. manufacturer and to break away from the 80:20 import/export ratio that has typified our nation's trade patterns to date.

The President's economic recovery program, therefore, must rely in large part upon a national export expansion policy which will include a coordinated and carefully developed effort to penetrate international markets for manufactured goods and services which yield jobs, revenues, and reduce our trade deficit. Essentially, this recurring gap has reflected our nation's inability to modernize its industrial base to meet the demands of an increasingly competitive and interdependent world economy.

What success we will have in turning our economy around depends upon how effectively we approach not only improved export performance but also improved productivity and slowing

inflation -- not piecemeal, but together. Richard Bolling and John Boles echoed our sentiments expressed last year when they outlined the steps needed to regain competitiveness on the world market: /12

1) A national export consciousness;

2) A global trade strategy;

3) A spirit of cooperative interaction between government and business;

4) A vehicle in the private sector for trade specialization -- the export trading company.

II. RESOURCES AVAILABLE TO THE NATION -

Historically, small and medium sized businesses have not played a significant role in our nation's export activity. Only 10% of the 300,000 manufacturing firms in this country export. Fewer than 1% of the nation's firms currently account for 80% of total exports. In fact, roughly 95% of the U.S. exports are accounted for by 100 corporations. The sixth largest U.S. exporter, ironically, is Mitsui. Studies have shown that there are 20,000 manufacturers and agricultural producers who manufacture or sell exportable goods and services which would be highly competitive abroad. Yet, small sized firms are ill-equipped to absorb the costs and risks involved in developing overseas markets. Export expansion on the scale required to offset trade deficits, we maintain, will depend upon the development of such intermediaries as export trading companies which,

by diversifying trade risk and developing marketing, financing, and export trading services, can do the exporting for larger numbers of U.S. producers. Using proven export capabilities as multipliers of exports, one export trading company can increase exports 20 times better than 20 "unwashed" manufacturers.

We have in our midst a considerable number of professional export management companies well equipped to handle overseas market development for small and medium sized businesses. These firms could and should provide the nucleus for any export expansion program seeking to involve our small business community, especially as they could assume the mantle of export trading companies as postulated in HR1648, offering a full range of export marketing, management and financing services. While other enterprises now provide export services to U.S. producers (e.g., freight forwarders, brokers, shippers, insurance companies, commercial banks, export management companies, advertising firms, trade lawyers, foreign purchasing agents), most fulfill only one or at best a minimal combination of the functions required to engage in export trade. Many export management companies competently provide the services outlined, but few of them, in fact, can bring the clout to a large-scale undertaking that a typical German, Japanese or French trading company can. The reasons are four-fold:

1) Traditional apathy towards foreign markets by the U.S. business community.

2) Undercapitalization. Those manufacturers financially capable of exporting operate independently, leaving export management companies to handle smaller, new-to-export suppliers which often outgrow and abandon their export management company to soldier on by themselves.

3) Foreign manufacturers are well organized and better positioned for exporting and thus, can offer quality products at competitive prices.

4) Many foreign countries have maintained high tariff structures and closed their markets to U.S. exporters.

U.S. banking and antitrust laws have discouraged development of export trading companies and export trade associations, as well as bank participation in export trading activity. We are convinced that legislation is needed to remove those deterrents. Export trading company development must go forward with financing incentives attracting the involvement of banks and major corporations. Export management companies would entail the generation of capital to move the broad U.S. industrial base into international markets. We are convinced that U.S. banks with diverse overseas representation, broad contacts with U.S. manufacturers, and considerable financial sophistication and capabilities can contribute significantly to the improvement of our export competitiveness if allowed to participate as shareholders in export trading companies.

We realize that there are limitations to public sector support of an export trade expansion effort. Very little money has been appropriated to the Export-Import Bank, and in any case Ex-Im is not geared to help small business. The Small Business

Administration export trade initiatives have proven failures, and the export trade community has little confidence in the Small Business Administration. While we applaud the Administration's determination to review regulations that hamper business and to provide some assistance to severely affected firms and workers, we also support the Administration's reliance upon market forces in the free market to ameliorate failing industries. A useful and necessary role for our government would be as a stimulus to private participation in export trade, rather than as a substitute for it.

Government sponsored incentives to spur export trade would include policies which:

1) develop the financial means for U.S. firms with export know-how to develop foreign markets for companies not presently exporting when financial resources are unavailable from conventional sources;

2) respond vigorously to foreign governments subsidizing their export industries;

3) renegotiate existing international rules on export credits; and

4) reduce subsidies and raise export credit rates to market levels.

We urge the government to pursue proper enforcement of the international agreement on subsidies and countervailing measures of the MTN to avoid the harmful effects on trade and production by such practices in other countries.

III. ISSUE OF BANK PARTICIPATION IN EXPORT TRADING COMPANIES -

A number of issues are raised by HR1648 and HR1799:

A. Should The U.S. Continue Its Present Policy Of Separation Of Commerce And Banking And Prohibit Bank Ownership Of Export Trading Companies?

Bank ownership of commercial enterprises is not without precedent. Prior to 1931, in fact, banks held majority interests in numerous non-financial enterprises. The Glass/Steagall Act of 1931 was promulgated in reaction to the debacle wrought by bank failures during the Depression. This Act mandated the separation of investment banking and commercial banking activities. But conditions in ensuing years have changed. In response to some of those changes, the Bank Holding Company Act of 1959 was enacted to permit commercial banks to establish holding companies that could own a number of financially related businesses such as factoring, credit card, commercial leasing, commercial financing, and mortgage financing businesses.

A point of contention over this legislation has been whether or not a bank should have a majority interest in an affiliated ETC for the purpose of engaging in export trade. From a banking perspective, there are three critical concerns of a far greater significance for bank participation in ETCs than the mere notion of bank ownership in export trading companies:

1) whether the ETC is an appropriate use of bank capital;

2) whether the activity can be construed as financially related; and

3) most importantly, to what degree would the bank's involvement concentrate available funds by lending to its own affiliate.

We submit that there is precedent for bank control of commercial enterprises in this country without doing violence to the bank regulatory framework. Virtually every major bank in the country now has a leasing or commercial finance subsidiary, and usually both. Under the Bank Holding Company Act, bank holding companies typically operate these businesses directly rather than conducting them through the vehicle of their commercial bank subsidiaries. The advantage of this approach is that it enables those businesses to be operated and financed separately from normal commercial banking activities. Although these activities are conducted in competition with independent (i.e., non-bank) finance companies, commercial banks are active lenders to independent finance companies as well. Indeed, independent finance companies are heavy users of bank financing and are important customers to commercial banks, who compete vigorously for their business. We see no reason why this system, which has operated successfully for a number of years, is not directly analogous to bank sponsorship of ETCs.

We believe, therefore, that bank sponsorship of ETCs through holding companies or Edge Act subsidiaries will create long-term incentives for bank entities to establish the requisite

organizational forms necessary to provide a complete range of export services. Permitting U.S. banking organizations in this fashion to hold ETCs would rationalize the present regulatory scheme. U.S. bank institutions are presently permitted to own interests in foreign ETCs which can buy and sell goods and services abroad. Foreign banks operating in the U.S. may own foreign ETCs which can export goods to the U.S., as well as U.S.-based ETCs. Furthermore, Edge Act Corporations, international financial holding companies, commercial corporations oriented towards national community purposes and banks and other bank related entities have been granted exemptions from Glass-Steagall in the past. Therefore, the present legislation is consistent with the previous exemptions that Congress has granted in order to implement national policies.

Opponents of bank ownership of ETCs maintain that U.S. banks have limited trading experience and expertise, that banks do not have merchandising expertise outside their own areas of loans and services, and that they do not have the capability to evaluate export marketing risks. But banks are capable of financing trading companies and offer, as well, a ready-made network of domestic and international contacts for those trading companies. Through overseas offices, banks can provide assistance in the penetration of foreign markets by U.S. trading companies. Opponents of HR 1648 and HR1799 also hold that bank participation would expose banks to undue risks and

increase substantially the potential for erosion of their capital ratios. In rebuttal, it should be remembered that banks have risk assessment control procedures and general management processes in place that can contribute to financially sound, well managed and reputable ETCs without an undue risk to such banks.

Opponents of bank ownership in ETCs also would limit bank participation in ETCs to a non-controlling interest. They propose these limits to provide an opportunity to the banking industry to gain experience and a measurable track record before a final determination is made as to whether banking organizations should be permitted to control ETCs. They maintain that bank participation is preferable to bank control. The critical issue is whether bank participation affords a partnership that preserves the "entrepreneurial" vitality of the ETC and encourages bank financing to promote U.S. exports. We would make two recommendations in this regard:

1) Ownership issues could be resolved by restricting bank investments to bank holding companies and Edge Act corporations. This would insure a separation between commercial bank functions and bank exporting activities.

2) In any event, banking organization control of an ETC should not ipso facto be precluded by this legislation.

In passing, it must be acknowledged that successful Japanese trading companies have the ability to create vast amounts of credit essential to the flow of international trade. Typically,

the debt/equity ratio of a Japanese trading company is 30 to 1. Thus, ratios of 10 to 1 may be required of the small or slower growing trading companies and as much as 30 to 1 may be required to match larger and faster growing companies. Essentially, only banks can provide this kind of leverage.

B. Do U.S. Banks Have Sufficient Commercial Experience To Enter Into Large Scale ETCs?

As stated above, we believe banks are capable of offering trading companies needed equity capital and ready-made networks of domestic and international contacts. They have experience in the international marketplace and familiarity with U.S. domestic producers. Bank have risk assessment control procedures and general management processes that can contribute to financially sound and well managed and reputable ETCs. In addition, through their overseas offices, banks can provide assistance in the penetration of foreign markets by U.S. trading companies.

C. Will U.S. Policy Currently Create Inevitable Conflicts Of Interest And Lead to Preferential Loan Practices?

Critics of this bill have suggested that it lacks the teeth to protect against a range of possible abuses encompassing conflicts of interest, preferential loan agreements and unfair practices resulting from anti-trust immunity. Critics of this bill have imputed evil motives to international banks. They would have us believe that lost letters of credit and rampant

unfair lending practices would proliferate unchecked. There is simply no basis in fact for these admonishments. The bill grants Federal banking regulatory agencies authority to intervene and impose any restrictions deemed necessary when a bank is seeking a controlling interest in any ETC. To engage in such conduct, the bank sponsored trading company would risk incurring the wrath that would be felt from those regulatory agencies.

The letter of both S734 and HR1648 prohibit banks from extending loans to any ETC that the bank holds an interest in or to any customer of an ETC on terms more favorable than those offered similar borrowers in similar circumstances or in circumstances involving more than normal risk of payment. The safeguards in the bill as well as extant law are adequate protection against these potential abuses.

D. Will Export Companies Be Swallowed Up By Banks?

Concerns have been expressed that bank sponsored ETCs would swallow up export management companies. Initially, we feel that bank sponsored export trading companies would employ experienced export management personnel to operate those firms. Many export management companies that desire to remain independent would continue to provide specialized services to U.S. manufacturers who would prefer more personal attention and operate on a smaller scale. There is undeniably a remote

possibility that the small EMC may be destined for extinction, but that possibility should spur our industry to adapt to the realities of a modern world. In that respect, exporters are no better or worse off than any other business persons, nor should they be.

IV. RECIPROCITY -

A. Statement Of Principle.

There are three aspects of HR 1648 that are at least as important as exporting larger amounts of our GNP: (1) the fact that any financial support or safe-haven status contemplated by the bill is tax-supported or government-sanctioned; (2) the need to insure that earnings of foreign-owned ETCs are not repatriated, thereby offseting the benefits to our current trade balance; and (3) the need to foreclose the possibility that foreign-owned ETCs could be controlled in a manner more reflective of foreign economic imperatives than our own. But the paramount factor is that the U.S. has been pursuing -- in vain mostly -- a policy of free capital movement among nations, and the application of a reciprocity standard in this situation would promote the attainment of those policy objectives while protecting to an acceptable extent the express legislative purpose of this bill.

We therefore believe that no foreign owned ETC should be eligible for ETC status unless U.S. interests enjoy similar

rights of establishment in that country. In so doing, we are not asking to preclude any foreign national from participating in our economy; we only are maintaining that to the extent that there is any tax-supported activity or safe-haven status afforded to a foreign national, that in-kind support and treatment should be extended to our nationals' interests abroad by those foreign countries. To underscore this principle of free trade would put teeth in our nation's policy of encouraging free movement of capital and avoiding protectionism. We must keep faith with the U.S. public and our trade constituency. Our country cannot afford to give support where none is reciprocated. Uniform standards applied enterprises of this country and foreign nations is the means we must have to insure the inviolability of our mutual trade interests and to promote the attainment of our nation's export expansion policy objectives.

In conclusion, EMAC stands ready with members of the international business community in this country to shape legislation which removes some of the more serious impediments to the competitiveness of American exporters in world markets. At this eleventh hour it would, indeed, be rather unfortunate if our collective efforts again fell short this year. We must resolve our differences, arrive at an acceptable bill, and get on with the task of restoring our nation's economic strength around the world.

Thank you.

FOOTNOTES

1. "California's International Trade", Security Pacific Bank, 1981.
2. Ibid.
3. Ibid. - A trade deficit of $160 billion computed by utilizing "FAS exports: CIF imports" figures (invoice value of goods, transportation and insurance costs).
4. International Economic Indicators - U.S. Department of Commerce - International Trade Administration - June, 1981.
5. Bolling, Richard and Boles, John, "How U.S. Can Reverse Its Downhill Trend In The World Market Place" excerpt in Los Angeles Times - Sunday, July 19, 1981 - Part VII.
6. Heinz, Senator John - Opening statement at hearing on ETC legislation - February 17, 1981.
7. Hearings Before the Subcommittee on International Finance and Monetary Policy, U.S. Senate (Senate Bill S144), February and March 1981, Testimony of Governor of the Federal Reserve Board.
8. "U.S. Trade Deficit Down But Baldridge Is Gloomy" in Los Angeles Times - July, 1981
9. Ibid.
10. Novak, Jeremiah "New Trade War Looming", in The Asian Mail, Alexandria, VA, Vol 5:10, July 1, 1981.
11. Bolling et al., op cit, note 5.

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WASHINGTON, D.C. 20515

May 4, 1982

Mr. John Liebman
Legislative Chairman
Export Managers Association of California
10919 Vanowen
North Hollywood, California 91604

Dear Mr. Liebman:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

In addition to any comments on the foregoing summary, which you may care to make, the Subcommitee will appreciate your response to the following questions based upon your testimony:

1. On April 22, several witnesses commented that H.R. 6016's prohibition against ETCs engaging in manufacturing should be more flexible so that exporting companies engaged in "minor product modification" be allowed to have bank holding company and Edge Act Corporation investors. Examples given of such minor product modification were changing plugs on electrical applicances to conform with overseas requirements and repackaging with foreign language instruction.

-How many of your 350 members who are exporters also engage in some "minor product modification" similar to that mentioned above?

-Just what types of "minor product modification" are these companies engaged in?

-Are you in favor of more flexibility to allow bank holding companies and Edge Act Corporations to invest in export trade companies that do some "minor product modification"?

-If you are in favor, would you have any suggestions as to statutory or regulatory language to incorporate this type of activity into H.R. 6016?

2. There is some question as to whether export trading companies should be permitted to take title to goods. The fear is that such companies could corner the market on certain exportable items by being able to take title while others argue that this is a necessary activity.

-Just how important is taking title to goods for an export trading company, and how many of your 350 members which are ETCs engage in this activity?

-Is the above expressed fear that some ETCs could corner the market on goods, if given this power, realistic? Please explain.

-Should ETCs explicitly be allowed to take title to goods, and if so, should this be expressed in the statute or by regulation?

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-On the other hand, does caution dictate that this activity not be allowed, or that the Federal Reserve Board be given the right to prohibit such activity, in certain instances, by regulation?

3. As to your criticism on pages 162-163 of the definition of export trading companies to be "exclusively" engaged in exporting, you suggested an alternative criteria — that a "preponderance" of an export trading company's gross receipts be for export sales in any three year period. Please expand on this suggestion giving reasons for the selection of a three year period and elaborating on your reference to a more strigent test for favorable DISC treatment.

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain
Chairman

Enclosure
Transcript
Feb. 22 Speech

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May 17, 1982

Honorable Fernand J. St. Germain
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Committee on Banking, Finance
and Urban Affairs
Subcommittee on Financial
Institutions, Supervision,
Regulation and Insurance
2129 Rayburn House Office Bldg.
Washington, D.C. 20515

Re: H.R. 6016

Dear Mr. Chairman:

In response to your letter dated May 4, 1982, we would like to comment further in reference to the issues discussed therein. Each numbered paragraph below corresponds to the paragraph numbers in your letter.

1. We agree that non-bank holding company banks should be permitted to participate in ETCs along with bank holding companies and Edge Act corporations, essentially subject to the same terms and conditions as presently postulated in H.R. 6016.

2. Bank-sponsored ETCs should be able to identify their affiliation with their bank sponsor, provided that such identification is accurate. Existing holding company subsidiaries generally have enjoyed considerable benefit from being identified clearly as part of their parents. In our view, to prohibit identification by the ETC with its bank sponsor would be misleading and detrimental to the public; we believe that accurate identification of bank sponsorship on the other hand will enhance the market potential of an ETC.

3. The primary purpose of the bill is to increase U.S. exports. Chief competitors to U.S. ETCs will be long-established, experienced trading firms from Japan, Korea, and Europe, which have built up their sales and resources through imports as well as exports. Most successful trading companies operate on very low profit margins, which means that newcomers to the market would be at a competitive disadvantage if their operations were confined to exports. For example, flutuating foreign exchange rates within international markets can drastically affect the ability of a country to import and export. If the U.S. dollar continues to strengthen for an extended period of time, U.S. exports will be less competitive and imports may become imperative for the ETC to maintain profitability levels. In addition, the ability of an ETC to import will enhance significantly its ability to export U.S. products which otherwise would not be marketable because of foreign exchange restrictions and other market constraints. Therefore, if an ETC generally produces incremental increases in exports, the legislative purpose espoused by H.R. 6016 should be attained. In any case, we believe that this area would be dealt best with by regulation than by statute.

4. Product modification ideally should be accomplished by the manufacturer rather than by an ETC. If an ETC is obliged to undertake such activity, however, it should be no more than a minimal one. This area, too, is best left to regulatory guidance.

5. When considered with existing limitations on bank holding company investments, the five percent limit proposed by H.R. 6016 probably is unnecessary. In addition, such a limitation imposed in the context of smaller banks may result in the elimination of those institutions from ETC participation, since the permitted investment may be too small to admit such banks to that activity.

6. We believe firmly that U.S. ETCs should be be allowed explicitly to take title to goods; however, we recognize the possible danger inherent in dealing with some of the more volatile commodity markets. Accordingly, we believe that regulatory limitations in connection with these activities would be adequate to cover those isolated sectors, allowing the vast majority of ETCs to act as true distributors in respect of U.S. manufactured goods.

7. The perspective articulated in this question is quite appropriate; however, in this regard ETCs should receive the same treatment as other holding company subsidiaries presently do under Section 23(A). Some Los Angeles banking institutions have expressed the view in this regard that while such limitations on holding company funding of ETCs may result in a slightly higher funding cost for the subsidiary, this limitation should not be a serious problem despite the narrow profit margins traditionally experienced by trading companies.

Turning to the second set of questions posed in your letter, we would like to make the following observations:

1. Inasmuch as most export management company members of our association are relatively small, virtually no product modification is accomplished by them. Most export managers work directly with the manufacturers to assure product compatibility in foreign markets. This pattern is understandable, given the ravenous appetite for capital which most export management firms have and the high cost of that capital.

To divert capital into plant and equipment needed for product modification would be most unusual. Some larger export management companies do have small assembly and modification facilities abroad, which have been established specifically to service a given foreign market, but these operations are relatively minor in relation to the overall operational structure. They nonetheless often play a significant role in establishing, maintaining, and improving market share. Accordingly, we believe that there should be ample flexibility in the legislation and implementing regulations to allow eligible banking institutions to invest in ETCs which have limited minor product modification activities.

2. Taking title to goods is essential for most export management companies comprising our Association. While the smallest of these operations, because of obvious limitations on working capital, are strictly commission merchants, some of the more successful and faster growing export management companies operate as distributors, taking title to finished products prior to their sale in foreign

markets. This is a very important attribute of the successful export management company, as it translates a potentially hazardous "export sale" into a conventional domestic sale for the small manufacturer having no experience in exports. Thus, the manufacturer need not contend with any of the complexities ordinarily associated with exporting, and the risk is assumed by the export management company.

In response to the expressed fear that some ETCs could corner the market on goods if given the right to take title, we can only observe that this phenomenon has not occurred among EMAC's export management companies. We see no reason, furthermore, why the advent of banking institutions to a sponsorship of ETCs would alter this situation. Foreign markets for manufactured goods are so highly competitive today that we doubt seriously whether any of them really could be "cornered". Then, too, the withholding of products from the market place implied by an attempt to corner a market would be extremely unprofitable, given the high cost of money prevailing in our financial markets, the role of that expense to export management companies, and the relatively low profit margins historically experienced by export management companies. Accordingly, as stated in paragraph 6 above, we believe that ETCs should be allowed specifically to take title to goods, and that any exceptions to that authority should be covered by regulation.

3. In my testimony to your Committee on April 22, 1982, I suggested the test for continued ETC qualification be that it achieve a preponderance of exports in gross receipts for any given three-year period. This suggestion emerged from the fact that a trading company's income patterns will not often fall into neat fiscal periods, thereby necessitating a broader time base for determining whether its activities and income justify its existence as an ETC. It may be, for example, that an ETC's gross receipts in any given fiscal year will be preponderantly import receipts, which may in turn have followed or preceded a fiscal year preponderant in exports and which, in fact, may have resulted directly from a barter, offset or counter trade transaction. In our experience, a three-year span should be ample time for any such arrangement to have run its course, thereby enabling the supervisory authority to determine whether the certificated entity is meeting its obligations under the statute.

In my testimony, I also mentioned that adherence to the regulations prescribed for DISCs might render this problem moot. A DISC must have at least ninety-five percent of its gross income fall within the category of "qualified export receipts" in each fiscal year (IRC § 993(a)). To the extent that ETCs may endeavor to maintain their status as DISCs, they will be obligated to meet this criterion in order to avail themselves of the tax deferral available under the DISC statute. To that extent, therefore, they virtually will have to be engaged "exclusively" in export trade. Given the diminishing viability of the DISC (and particularly its vulnerability both in the Congress and before the GATT Council) to say nothing of the constraints imposed upon them in relation to their operations, we may find that many ETCs will not elect to be taxed as DISCs. This would then necessitate the articulation of another qualification standard, such as the three-year preponderance test suggested above.

I hope that the comments contained in this letter will be of assistance to you and your Committee.

Respectfully,

John R. Liebman

JRL/ic

Chairman ST GERMAIN. Thank you. I believe probably all the witnesses are focusing on, or seem to indicate, they are not too pleased with the fact that the Fed would have to approve the initial investment, the initial capital put into the ETC. Is that correct? You just mentioned that, Mr. Fox.

Mr. LIEBMAN. Up to a de minimis point, yes, sir.

Chairman ST GERMAIN. I have been discussing this with staff. The Federal Reserve Board will be testifying on this legislation. We will ask them to give us an indication as to whether they would be prone to, and prepared to, issue regulations almost immediately. As a matter of fact, we will ask them to include in their testimony, if they agree, an indication of what they would establish as a baseline ahead of time. And I think we could probably get around your concerns in that manner and that would satisfy you there—hopefully.

Mr. LIEBMAN. Yes, sir.

Chairman ST GERMAIN. Now I would call on my Connecticut Yankee friend up here.

Mr. MCKINNEY. Mr. Chairman, welcome to Connecticut. It is a pleasure for me to be here to introduce Wayne Moore, of Moore Machine Tool in Bridgeport, Conn. It is a shining example of success. I just gave them their Star Award for exports. In fact, I would say Moore Machine Tool is a blinding light of success in a rather dismal industrial picture in the Northeastern United States.

Mr. Chairman, what is so unique about this company, which is not a giant in its industry is the fact that 40 percent of the products of Moore Machine Tool are exported. I guess you could literally say that 40 percent of their payroll comes from what they have managed to export.

Having spent some time studying MITI's Japanese commitment to machine tools, I think as well as Wayne and his father are doing, that they are going to need all the help we can give them. It seems to me export trading companies are right down that alley because I would suggest to the chairman that if he ever has some time I will horrify him with the Japanese program for machine tools. I say horrify because I know you make a few in Providence, R.I., too.

OK, Wayne, it is a pleasure to have you here. I would apologize for my lengthy remarks. We go on here, but every word that you have written, which I read last night, will be in the record.

Thank you, Mr. Chairman.

Chairman ST GERMAIN. Now we will hear from Mr. Wayne Moore of Bridgeport, Conn.

STATEMENT OF WAYNE R. MOORE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, MOORE SPECIAL TOOL CO., BRIDGEPORT, CONN., ON BEHALF OF THE NATIONAL MACHINE TOOL BUILDERS' ASSOCIATION, ACCOMPANIED BY JAMES H. MACK, PUBLIC AFFAIRS DIRECTOR OF THE ASSOCIATION

Mr. MOORE. I appreciate being here all the time. I was not sure which Connecticut Yankee you were addressing. As you know, my name is Wayne R. Moore. I am president and chief executive officer of Moore Special Tool Co. Accompanying me today is Mr.

James Mack, public affairs director of the National Machine Tool Builders' Association, NMTBA, the national trade association of which Moore Special Tools is one of the over 400 member companies.

We would like to commend you, Mr. Chairman, for your efforts to improve the export outlook. As you know, the Senate's unanimous and overwhelming approval of export trading company legislation came in April of last year. We applaud your initiative in restoring the momentum to a process that has been stalled far too long over a problem far too serious.

Moore Special Tool Co., a privately owned company, was founded in 1924 by my father and current chairman of the board, Richard F. Moore. Located in Bridgeport, Conn., the company manufactures the tools of metalworking precision—jig grinders, jig borers, angle dividing equipment, and universal measuring machines used by bureaus of standards throughout the world. Our domestic employment is approximately 530 workers.

In addition to the U.S. operation, Moore Special Tool also includes one foreign wholly owned subsidiary in Switzerland and a foreign licensee. We are in the beginning stages of establishing a marketing center in Hong Kong for operations in the Far East and the People's Republic of China.

The company was a recipient of the Department of Commerce's E Award in 1974 and this year was presented the E Star Award for continued excellence in exporting. Richard F. Moore, my father, was honored with a 1974 AM Award, presented annually by the editors of American Machinist for distinguished contributions to manufacturing.

Moore Special Tool views foreign trade as an extremely significant element in what has come to be recognized as a worldwide machine tool market. Since 1979, approximately 40 percent of the company's domestic production has been shipped overseas.

Shifting from my own company's experience to that of the machine tool industry generally, I would like to share with you some alarming data concerning the industry's declining competitive position in the world market today.

In the middle 1960's, one out of every three machine tools consumed in the world was produced by an American machine tool builder. However, by the end of 1981, that portion had fallen to only one in five. In short, over the past 15 years our share of the world market has plummeted by almost 35 percent.

This dramatic decline, the details of which are included in our written statement, is the result of two factors. First, our domestic market has been invaded by foreign competitors on a scale never before imagined. In 1981 imports accounted for 36 percent of the units consumed and about 30 percent of the dollars spent by U.S. industry for machine tools.

Our foreign competitors have pulled out the stops and are aiming their export marketing efforts directly at America. This situation has critical implications for our national security.

Our share of the export market has also steadily declined. The causes for this decline are varied and complex. However, lack of sufficient capital, inability and/or unwillingness to deal with the risks inherent in foreign trade and the absence of a middleman to

provide essential services are among the primary reasons why smaller American companies have not entered the export market.

I know from my own experience that the small manufacturer is inevitably confronted with a diseconomy of scale because of the few export transactions that actually go through, the result being a relatively high cost of each export.

We, therefore, commend you, Mr. Chairman, for sponsoring a bill designed to stimulate exports by spurring the creation of capital for large-scale American trading companies. These companies would provide much-needed export assistance, particularly for small and medium-sized businesses.

In previous statements to the Senate and before this subcommittee, NMTBA has expressed the view that, while the general principal of separation of banking and commerce is a sound one, there is sufficient, indeed compelling, reason to make an exception on a controlled basis for limited and conditional bank ownership of bank export trading companies.

Clearly, there is a demonstrated need for bank participation in ETC's—direct, as in the Senate bill, or indirect, as in your bill. Simply stated, bank participation is the fuel needed to power the ETC vehicle. The variety of export services that American banks are able to offer would provide a significant boost to U.S. exporters who now experience difficulty and expense in securing this type of competitive assistance.

While my own company has been successful in its export activities, there is a significant number of small U.S. firms who, without the type of assistance which would be provided by ETC's, are presently prevented from entering the export market. Furthermore, certain services now either unprofitable or illegal—such as putting buyers in touch with sellers for a fee or providing credit and political risk insurance to U.S. manufacturers—would also be available to American exporters under this approach.

Certainly, bank expertise would be an asset to ETC management, organization, and operation. Indeed, banks, with their international offices, experience in trade financing, business contacts at home and abroad, and international marketing knowledge are the most likely and reliable source of leadership in forming export trading companies.

We would also like to add our voice to the concerns expressed by the other witnesses today that the word "exclusively" in the definition of an ETC is perhaps too narrow. When we first started exporting many years ago—20 years ago—we found we had to demonstrate to our customers that we were going to be there tomorrow. They would ask us are you just here today or are you going to be here tomorrow and next year, and we had to demonstrate to them our commitment and our full support to their market in terms of training and technical support and service.

Continuity is the key to a successful market development and the ability to offer a wide range of export-related activities such as those outlined in H.R. 6016. These related activities are vital if we are to achieve that goal.

In conclusion, we would like to point out that the U.S. competitive position in the world market has declined progressively over a period of time. The ETC legislation before you is a fundamental

step in a series of steps that must be taken now to first stabilize America's competitive posture and to provide avenues for future growth.

Thank you for your attention. We would be happy to respond to your questions.

[Mr. Moore's prepared statement, on behalf of the National Machine Tool Builders' Association; Chairman St Germain's May 4, 1982, letter containing a summary of H.R. 6016 issues and requesting comment; and Mr. Moore's response, dated May 17, 1982, follow:]

STATEMENT BY
WAYNE R. MOORE
PRESIDENT AND CHIEF EXECUTIVE OFFICER
MOORE SPECIAL TOOL COMPANY, INC.
BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION & INSURANCE
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
U. S. HOUSE OF REPRESENTATIVES
APRIL 22, 1982

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APRIL 22, 1982

I. INTRODUCTION

Good afternoon, my name is Wayne R. Moore. I am President and Chief Executive Officer of Moore Special Tool Company, Inc. Accompanying me today is Mr. James H. Mack, Public Affairs Director of the National Machine Tool Builders' Association (NMTBA), the national trade association of which Moore Special Tool is one of over 400 member companies.

Although we are of course pleased to be of service to this Subcommittee, we are here today with somewhat mixed emotions in that it was more than a year ago that NMTBA appeared before a similar panel in the other house. At that time, we conveyed nearly the same message that we will convey to you today. Improved export policy is an area of vital concern to both my own company and the U.S. machine tool industry as well as the U.S. economy generally.

Knowing that you share our concern, we would like to commend you, Mr. Chairman, for your efforts to improve the export outlook. As you know, the Senate's unanimous and overwhelming approval of export trading company legislation came in April of last

year. We applaud your initiative in restoring the momentum to a process that has been stalled far too long over a problem far too serious. Mr. Chairman, your recent introduction of the "Bank Export Services Act," (H.R. 6016), along with today's hearing, will aid significantly in establishing the basis for constructive dialogue concerning export policy.

Before proceeding with my comments, I would like to briefly outline Moore Special Tool's activities in the metalworking industry, as well as the company's extensive experience in the export market.

Moore Special Tool, a privately-owned company, was founded in 1924 by my father and current Chairman of the Board, Richard F. Moore. Located in Bridgeport, Connecticut, the company manufactures the tools of metalworking precision: jig grinders, jig borers, angle dividing equipment, and universal measuring machines used by Bureaus of Standards throughout the world. Our domestic employment is approximately 530 workers.

In addition to the U.S. operation, Moore Special Tool also includes one foreign wholly owned subsidiary in Switzerland and a foreign licensee. We are in the beginning stages of establishing a marketing center in Hong Kong for operations in the Far East and the People's Republic of China. The company was a recipient of the Department of Commerce's E Award in 1974 and this year was presented the E Star Award for continued excellence in exporting. Richard F. Moore was honored with the 1974 AM Award,

presented annually by the editors of American Machinist for "distinguished contributions to manufacturing."

Moore Special Tool views foreign trade as an extremely significant element in what has come to be recognized as a worldwide machine tool market. Since 1979, approximately 40% of the company's domestic production has been shipped overseas.

Shifting from my own company's experience to that of the industry generally, it is important to point out that while the domestic U.S. machine tool market has been oscillating with very little real growth since the middle 1960's, the world market has grown substantially. Unfortunately, most of this worldwide expansion has been absorbed by our foreign competitors, eroding our market share.

In the middle 1960's, the American machine tool industry supplied approximately one-third of the total global market. In other words, one out of every three machine tools consumed in the world was produced by an American machine tool builder. However, by the end of 1981, that portion had fallen to only 1 in 5. In short, over the past 15 years, our share of the world market has plummeted by almost 35%.

This dramatic decline is the result of two factors. First, our domestic market has been invaded by foreign competitors on a scale never before imagined. For example, since 1964, America's imports of foreign machine tools have grown six-fold from

4-1/2% of total consumption 17 years ago to almost 30% in 1981, based on value. As a share of units, that is, machines actually installed, in 1981 imports accounted for 36% of U.S. consumption. It is obvious that, because the United States is the largest open machine tool market in the world, our foreign competitors have pulled out the stops and are aiming their export marketing efforts directly at America.

Second, and this is the aspect that we wish to focus on at this time, our share of the export market has also declined. When we look at the dollar value of our exports, the results of our efforts look encouraging. But if we look at American exports as a percentage of all of the machine tool exports in the world, the results are indeed very discouraging. We have been losing export market share at an alarming rate. Our share of the world's machine tool exports fell from 21% in 1964 to just 10% last year, placing us well behind West Germany and Japan as a machine tool exporting nation.

Finally, and perhaps most alarming, in 1978 the United States suffered its first machine tool trade deficit in history, with imports exceeding exports by some $155 million. Unfortunately, this deficit trend continued through 1981. Even though our exports grew by 83% over 1978 levels, imports soared by more than 107% to produce an even larger trade deficit of almost $455 million in 1981.

The National Machine Tool Builders' Association is a national trade association representing over 400 American machine tool manufacturing companies, which account for approximately 90% of United States machine tool production. Although the total machine tool industry employs approximately 105,000 people with a combined annual output of around five billion dollars, most NMTBA member companies are small businesses with payrolls of 250 or fewer employees.

While relatively small by some corporate standards, American machine tool builders comprise a very basic segment of the U.S. industrial capacity, with a tremendous impact on America. It is the industry that builds the machines that are the foundation of America's industrial-military strength. Simply stated, without machine tools, there could be no manufacturing.

II. NATIONAL MACHINE TOOL BUILDERS' ASSOCIATION EXPORT PROMOTION ACTIVITIES

NMTBA and its member companies have devoted considerable time and effort to increasing exports.

NMTBA, on behalf of the American machine tool industry, is devoting its own resources to the development and maintenance of international markets everywhere in the world. The Association has three people who spend virtually their full time overseas promoting United States machine tool exports with considerable assistance from the Department of Commerce.

NMTBA develops seminars and workshops to train our members' people on international financing, export licensing, or any

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other subject that will benefit a machine tool builder. We conduct market research to locate new and promising markets for industry development. We have conducted roughly 40 Industry Organized, Government Approved (IOGA) overseas promotional activities to help gain a foothold in these new markets, and approximately eighteen are planned for 1982 and 1983. We sponsor foreign exhibitions so that our members will have more opportunities to display their products overseas. In addition, we often work in close conjunction with the Commerce Department on such activities as recruiting exhibitors for export promotion events such as catalog shows, video tape shows and technical seminars. We organize reverse trade missions to bring foreign buyers to our plants. And we bring large groups of foreign visitors to the International Machine Tool Show in Chicago every two years. In 1980, we attracted over 7,000 foreign visitors -- the record for any U.S. exhibition. The Commerce Department has worked closely with us in the development and implementation of these programs, as have the commercial officers in our embassies and trade centers around the world.

III. BANK INVOLVEMENT IN EXPORT TRADING COMPANIES

A. American Manufacturers Need Incentives to Enter the Export Market

In an economy which has until only recently been primarily oriented to the domestic market, it is not hard to understand why export trade has been deprived of significant financial resources. Because of such an overwhelmingly domestic orientation, the investment and entrepreneurship to establish export trading companies (ETC's) on an economical scale has been difficult.

With a gigantic domestic market to produce for, many American businessmen have shyed away from what they often perceive to be the complex world of international trade. While countries like Canada export 27% of their gross national product, Germany 36%, and the United Kingdom 22%, the U.S. consumes all but 18% of domestic production. Recent statistics indicate that only 4% of this country's 350,000 manufacturers ship their goods abroad and, of those, a mere 200 industrial giants account for about 80% of all U.S. exports. Since 1960, the U.S. share of manufactured exports has slid from 22.8% to 16.4% of the world total.

The causes for this decline are varied and complex. However, lack of sufficient capital, inability and/or unwillingness to deal with the risks inherent in foreign trade and the absence of a middleman to provide essential services are among the primary reasons why smaller American companies have not entered the export market. In addition, the small manufacturer is inevitably confronted with a diseconomy of scale because of the few export transactions that actually go through, the result being a relatively high cost of each export.

Given the faltering competitive position of the U.S. in the world market generally, there appears to be widespread consensus that there is a critical need to boost U.S. export activity. Yet, U.S. statutes impose a number of artificial barriers that significantly restrict export opportunities. The most prevalent are the antitrust laws restricting joint export ventures

by American companies and the banking laws that limit bank participation in export ventures. The absence of similar restrictions on foreign businesses have fostered a situation in which small, underfinanced American companies have neither the capital nor the opportunity to compete with larger, well connected overseas trading companies.

B. "The Bank Export Services Act" (H.R. 6016)

We, therefore, commend you, Mr. Chairman, for your sponsorship of H.R. 6016, a bill designed to stimulate exports by spurring the creation of capital for large-scale American trading companies. These companies would provide a much needed export vehicle for small and medium-sized businesses, and also facilitate joint-ventures and barter deals by large, already established exporters.

We recognize that the degree to which banking institutions will have ownership participation in export trading companies is the most controversial aspect of the legislation. We would like to take this opportunity to comment specifically on H.R. 6016 and to respond to the concern of those who believe that commerce and banking should remain separate activities.

Section 2 of H.R. 6016 amends the Bank Holding Company Act of 1956 by authorizing bank holding companies and Edge Act Corporations to invest in export trading companies. Export trading companies are defined as organizations that operate under

U.S. or State law exclusively to export or facilitate the export of goods or services produced in the U.S. by providing one or more export trade services. (An export trading company formed "exclusively" to export goods or services could conceivably restrict certain potentially successful ventures such as compensating trade or barter arrangements and "turnkey" operations, which are particularly prevalent in third world and non-market countries. Substituting the word "primarily" in H.R. 6016's definition of an ETC would allow a more flexible parameter, while serving essentially the same purpose.) Export trade services would include consulting, international market research, advertising, marketing, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communications and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided to facilitate the export of U.S. goods and services.

H.R. 6016 would allow bank holding companies to invest up to 5 percent of their consolidated capital and surplus, and Edge Act Corporations up to 25 percent of their capital and surplus, in export trading companies. All investments would be subject to prior approval by the Board of Governors of the Federal Reserve System. Export trading companies could be owned wholly or in part by one or more bank holding companies or by one or more Edge Act Corporations.

Export trading companies could become involved in underwriting, selling or distributing securities in the U.S. only to the extent their parent bank holding companies or Edge Act Corporations could legally do so. Export trading companies also could not engage in manufacturing or agricultural production activities, or have a name similar to their parent organizations.

H.R. 6016 has adopted the specific recommendations of the Federal Reserve by incorporating the same restrictions contained in Section 23A of the Federal Reserve Act. That is, limits imposed by Section 23A on the amount of permissable lending between parent companies and affiliates would apply to export trading company affiliates of bank holding companies and Edge Act corporations.

In previous statements to the Senate and before this Subcommittee, NMTBA has expressed the view that, while the general principal of separation of banking and commerce is a sound one, there is sufficient, indeed compelling reason to make an exception on a controlled basis for limited and conditional bank ownership of export trading companies. We remain firm in our conviction that limited bank ownership of ETCs provides the most complete alternative for strengthening U.S. capacity to meet non-traditional international trade competition.

The Senate-passed legislation does provide for bank-owned ETCs on a limited basis. H.R. 6016, by contrast, restricts ETC ownership to bank holding companies. Our concern is

that those regional banks who, for whatever reasons, have opted not to form bank holding companies would be precluded from direct (and valuable) ETC participation. However, by expanding the depth and availability of export financing, H.R. 6016 accomplishes a vital objective and we support it. (For a balanced and thorough analysis of this issue, we refer the Subcommittee to a recent article by Barry Lutzky, "The Proposed Export Trading Company Act of 1980: Bank Ownership Provisions," Journal of International Law and Economics, 1981.)

C. Currently Existing Export Management Firms and Financing Alternatives are Inadequate to Compete Effectively with Foreign-Based Export Trading Companies

Those who oppose banking participation (direct or indirect) in export trading companies allege that such vehicles are not necessary, because there already exist export management firms or brokers which can adequately handle the needs of U.S. exporters. More specifically, it has also been argued that there is no need for direct or indirect banking participation in ETCs because the Export-Import Bank of the United States (Eximbank) already is capable of meeting the financial needs of U.S. exporters. In response, we would point out that although the Department of Commerce estimates that there are close to 3,800 export management firms or brokers in the United States, most are quite small (92% employing fewer than 5 people). Moreover, these firms normally limit themselves to a specific product line for a geographic area. It is also important to note that one of the major reasons these

firms have not continued to grow is that they are frequently under-capitalized. Consequently, banks are unwilling to extend them substantial lines of credit. While Japanese companies have substantial debt/equity ratios, small U.S. companies do not.

Addressing the argument that bank-affiliated ETCs are not warranted, because the Eximbank is already capable of providing sufficient export financing assistance, we begin by pointing out that Eximbank is an independent agency of the U.S. Government that works in cooperation with commercial banks to provide special financing services for U.S. exporters. In contrast, bank-affiliated export trading companies would be private entities with the internal ability to both finance and market goods in foreign commerce. While in no way deprecating the important role that Eximbank plays in furthering U.S. exports in world markets, it is obvious from the above two descriptions that the Eximbank and bank-affiliated ETCs are generically dissimilar entities with different goals and objectives. Simply stated, Eximbank is designed to offer targeted government financial assistance in <u>specific, case-by-case exporting circumstances, whereas bank-affiliated ETCs would provide U.S. exporters with a one-stop financing and marketing package designed to address a much broader range of export trade opportunities</u>.

However, it has been suggested that many, if not all, of these advantages are already currently available via

Eximbank assistance. Admittedly, Eximbank has a financing network with hundreds of U.S. and foreign financial institutions. Nor is there disagreement that these close working relationships have made it possible to further extend Eximbank's resources in cases where it is critical for American exporters to be able to offer financing competititve with that available to government-leveraged foreign sellers.

However, although Eximbank may to some extent have access to the financial resources of private banking institutions, a critical factor governing the utilization of these resources is the funding level of Eximbank. Indeed, in the two most recent years for which complete data is available (1979 and 1980) Eximbank financed exports have amounted to only 8% of total U.S. exports. These figures clearly illustrate the limited, albeit vital, role Eximbank is designed to serve. Indeed, Eximbank's statutory authorization states that "the Bank in the exercise of its functions should supplement and encourage, and not compete with private capital."[1]

Moreover, although Eximbank is primarily a self-sustaining U.S. corporation required to provide adequate earnings to cover costs -- just like any other business -- it is, nevertheless, also a government institution subject to official United States policy and regulations in a variety of spheres ranging

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[1]The Export-Import Bank Act of 1945, as amended through November 10, 1978, 12 U.S.C. 635(b).

from foreign policy to economic concerns to environmental considerations. Given these additional restrictions, Eximbank is therefore inherently less flexible than bank-affiliated ETCs would be in similar commercial circumstances.

It is somewhat ironic that, as we meet here today, the very future of Eximbank and its ability to promote U.S. exports is seriously threatened. Even if the proposed cuts in Eximbank's lending authority (cuts which would effectively shut down the Bank's role as a major player in the export process) are not enacted, the projected needs of Eximbank are almost certain to go unfilled. Thus, it is both unrealistic and inconsistent to expect an under-financed (or perhaps even non-existent) Eximbank to serve as a major source of credit for U.S. exports.

Finally, it appears almost self-evident that the major resource available to Eximbank is the very resource that bank-affiliated ETCs would tap one step closer to the original source: the financing capacity of private banking institutions. Equally important, bank-affiliated ETCs would also be able to provide the critical export marketing services necessary for successful export trade. Export marketing services, such as those provided by H.R. 6016, are beyond the capacity and purpose of Eximbank, but would be a vital element in bank-affiliated ETCs.

The Eximbank is a highly commendable effort by the United States government to offer targeted assistance to further U.S. overseas trade. Its lending authority deserves to be

increased, not cut back. However, there remain vast export trade opportunities which, for the reasons already stated, would be much more effectively pursued via privately operated bank-affiliated export trading companies.

D. The Need for Bank Participation in ETCs

At this point we believe it is important to review some of the benefits that we see accruing to the United States by virtue of bank participation (direct or indirect) in export trading companies.

First, our domestic laws separating banking and commerce are designed to preserve domestic competitive equality, not to meet the relatively recent foreign competition.[2] However, because of this relatively new challenge from overseas, bank involvement in ETCs is absolutely essential if American business is to be competitive abroad.

In this regard, legislation providing for bank involvement in ETCs would alter the laws separating banking and commerce only as they apply to the area of export trade, an area where the United States has always recognized the need for special rules to meet foreign competition (e.g., the Eximbank, Commodity Credit Corporation, the Webb-Pomerene Act and the Domestic International Sales Corporations (DISC) legislation, etc.). Thus,

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[2]Many of these laws, notably the Glass-Steagall Act (the Banking Act of 1933) are rooted in the Depression. As such, they were created in response to an immediate and drastic need, rather than as the basis for a broad, long-range policy.

ETCs, rather than unnecessarily involving banks in commercial activities, actually follow the longstanding tradition in U.S. law of not applying domestic rules to export trade activities, when to do so would only impede U.S. competitiveness in world markets.

Clearly, bank expertise would be an asset to ETC management, organization and operation. Indeed, banks, with their international offices, experience in trade financing, business contacts at home and abroad, and international marketing knowledge are the most likely and reliable source of leadership in forming export trading companies. And, as one observer has noted:

> "in addition to supplying the necessary capital, banks have the capability to organize a single, comprehensive financial package that can quickly and efficiently meet differing needs as they arise. Banks also provide a 'neutral' source of financing, as compared to corporate owned ETCs, which may promote the export of their own goods to the exclusion of others."[3]

Currently, a number of European banks operate some of the largest trading companies, and are able to supply those ETCs with almost all of the supporting facilities and services which U.S. exporters now lack by contrast. What often happens is that foreign ETCs employ U.S. banks as intermediaries in arranging and financing initial transactions with U.S. exporters. However, after the initial contact with these American firms has been made, the foreign

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[3]Lutzky, Id., p. 500.

ETCs substitute their own internal financing for that of the original U.S. bank intermediary. The result is a short term profit, but a long term loss for both the U.S. bank and America generally. Although more American-made goods are exported (a highly desirable result), export service fees are needlessly being shipped overseas along with U.S. products, with a resulting loss in income and jobs to American financial institutions.

Therefore, NMTBA strongly urges the involvement of U.S. banks in U.S. export trading companies. Bank participation is the fuel needed to power the ETC vehicle. The variety of export services that American banks are able to offer would provide a significant boost to U.S. exporters who now experience difficulty and expense in securing this type of competitive assistance. Furthermore, certain services now either unprofitable or illegal (e.g., putting buyers in touch with sellers for a fee, or providing credit and political risk insurance to U.S. manufacturers) would also be available to American exporters under this approach.

IV. CONCLUSION

We gratefully acknowledge this opportunity to relate the experiences of Moore Special Tool and the U.S. machine tool industry in the export market. We commend you, Mr. Chairman, as well as the other cosponsors of H.R. 6016, for your legislative initiative in this area. NMTBA supports this legislation as a sound basis for comprehensive U.S. export trading company legislation.

As we have stated, by expanding export trading company activities, H.R. 6016 will provide the vehicle for increased export activity. The active and integral involvement of banks and other financial institutions in export trading companies is the absolutely essential element needed to power this vehicle.

As you have recognized, Mr. Chairman, the inclusion of services in addition to goods is also of vital importance if the U.S. is to remain an aggressive and effective competitor in the ever expanding global economy. Technical assistance, training, marketing and other support services are crucial foundations in the successful development of export markets. The ability of U.S. exporters to provide a wide range of export related services offers tangible evidence to our overseas customers of a serious, ongoing commitment on our part.

Additionally, clarification of the antitrust laws in this area, specifically those concerning which government agencies will be empowered to enforce such laws, will remove the legal uncertainties which have posed significant, and for many insurmountable, barriers to active involvement in the export market.

In conclusion, we would like to point out that the U.S. competitive position in the world market has declined progressively over a period of time. Some of the reasons for this decline have been discussed here today. The ETC legislation before you is a fundamental step in a series of steps that must be taken now to first stabilize America's competitive posture and to provide avenues for future growth. The benefits to be derived from the expansion of ETC activities will not be immediately realized, however, and that is why your timely response to this situation becomes even more critical.

We thank the Subcommittee for its attention and would be happy to respond to questions.

FERNAND J. ST GERMAIN, R.I., CHAIRMAN
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CARROLL HUBBARD, JR., KY.
NORMAN E. D'AMOURS, N.H.
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WASHINGTON, D.C. 20515

May 4, 1982

Mr. Wayne R. Moore, President and
Chief Executive Officer
Moore Special Tool Co., Inc.
800 Union Avenue
P.O. BOX 4088
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Dear Mr. Moore:

On behalf of the Subcommittee on Financial Institutions, I wish to express our appreciation for your testimony on the provisions of H.R. 6016, the Bank Export Services Act. In preparation for the resumption of hearings on May 19-20, a thorough review of the April 22 transcript has been conducted so that all witnesses may have an opportunity to comment on those issues in need of possible statutory amendment or regulatory clarification. Any additional comments you may wish to make supplementing your prepared testimony will be appreciated.

Summary of H.R. 6016 Issues

1. In order to encourage maximum participation by banks in ETC financing, proposals to permit participation by non-bank holding company banks, with appropriate safeguards, should possibly be developed.

2. If export trading companies are allowed similar names to the investing institutions, can appropriate means be developed to insure that the investing public and the ETC user is not mislead?

3. How do you maintain the primary purpose of ETC legislation if the "exclusively" requirement is substantially modified? Is this an area better left to regulatory guidelines rather than dealt with by statutory definition.

4. Present definition of manufacturing appears to exclude product modification. Is this also an area best left to regulatory discretion?

5. Are H.R. 6016 limitations for BHC investments of 5% of BHC's capital and surplus too restrictive for medium and smaller size banks?

6. Should ETCs explicitly be allowed to take title to goods, and if so, should this more appropriately be handled by regulation with appropriate safeguards?

7. In the past, loans and other financial transactions among bank holding company affiliates have proven to be the source of some bank holding company soundness problems. To discourage unhealthy dependence on

affiliate banks for operating credit, the terms of Section 23(A) governing inter-affiliate lending are intentionally onerous. The motivating belief is that if a subsidiary company is operating on a sound business basis, it should be able to obtain credit on its own and not need to depend on its unique relationship with an affiliate bank. Is this perspective inappropriate to export trading company subsidiaries of bank holding companies, and if so, why?

In addition to any comments on the foregoing summary, which you may care to make, the Subcommitee will appreciate your response to the following questions based upon your testimony:

1. On April 22, several witnesses commented that H.R. 6016's prohibition against export trading companies engaging in manufacturing should be more flexible so that exporting companies engaged in "minor product modification" be allowed to have bank holding company and Edge Act Corporation investors. Examples given of such minor product modification were the changing of plugs on electrical appliances to conform with overseas voltage requirements, and repackaging with foreign language instructions. Do you feel that more flexibility is needed here? Please explain.

2. There is some question as to whether export trading companies should be permitted to take title to goods. The fear is that such companies could corner the market on certain exportable items by being able to take title while others argue that this is a necessary activity.

-Is the above expressed fear that some ETCs could corner the market on goods, if given this power, realistic? Please explain.

-Should ETCs explicitly be allowed to take title to goods, and if so, should this be expressed in the statute or by regulation?

-On the other hand, does caution dictate that this activity not be allowed, or that the Federal Reserve Board be given the right to prohibit such activity, in certain instances, by regulation?

The Subcommittee will appreciate your response prior to May 18 so that all responses may be made a part of the printed hearing record.

Sincerely,

Fernand J. St Germain
Chairman

Enclosure

CHAIRMAN:
William C. Gallmeyer
President
Gallmeyer & Livingston Company
Grand Rapids, Michigan

1st VICE CHAIRMAN:
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Sr. Vice President
Group Executive—Machine Tool Systems Group
Litton Industries, Inc.
Hartford, Connecticut

2nd Vice Chairman:
W. Paul Cooper
Chairman of the Board
Acme-Cleveland Corporation
Cleveland, Ohio

TREASURER:
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President & C.E.O.
Cincinnati Milacron Corporation
Cleveland, Ohio

SECRETARY:
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Sheldon Machine Co., Inc.
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Bridgeport, Connecticut

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Moline, Illinois

Charles E. Gilbert, Jr.
President
The Cincinnati Gilbert Machine Tool Company
Cincinnati, Ohio

Donald A. Aceeh
President & C.E.O.
Brown & Sharpe Manufacturing Co.
N. Kingstown, Rhode Island

William Trestle, Jr.
President
Rockwell Corporation
Chicago, Illinois

Harold J. Wilcox
President & Chairman of the Board
The Minster Machine Co.
Minster, Ohio

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James Mefield
International Trade Director

John Madil
Training Director

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May 17, 1982

Honorable Fernand J. St Germain
Chairman
House Banking Committee
2129 Rayburn House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

In response to your letter of May 4, 1982 concerning our testimony before your subcommittee on the provisions of H.R. 6016, I am pleased to provide the following comments:

1. We believe that export trading companies should be allowed flexibility in product modification. When modifications are needed to conform to requirements in other countries, it is appropriate that such modification be accomplished by the ETC prior to shipment.

2. We believe that it is absolutely necessary that export trading companies take title to goods in order to protect the investment of the Bank Holding Company. Standards can be established to ensure against unsafe or unsound practices that might adversely affect a controlling banking organization investor. Inventory-to-capital ratios can be established, based on the capital of the export trading company subsidiary. The appropriate Federal banking agency can give special attention to the need to take title to goods in the various kinds of trade transactions.

   The basic authority for an export trading company to take title to goods should be included in the Act with the Federal Banking Institution being given flexibility to implement this provision by regulation.

Again, we appreciate very much your efforts to move this needed bill through the legislative process.

Sincerely,

Wayne R. Moore

Wayne R. Moore
President & C.E.O.
Moore Special Tool Company, Inc.

Overlooking The Nation's Capital

WRM:ph

Chairman ST GERMAIN. Thank you, Mr. Moore. Mr. Liebman, if my memory serves me correctly, the California Legislature adopted legislation prohibiting bank holding companies from engaging in the insurance business, which was subsequently vetoed by Governor Brown with an override of the veto by the California State Legislature.

Do you recall that?

Mr. LIEBMAN. Not specifically, sir.

Chairman ST GERMAIN. Well, I think it is perhaps good that I bring it to your attention. That same type of legislation has been adopted in approximately 28 States, just a little vignette that I thought might be of assistance to you and that you might want to check out when you get back to sunny California.

Mr. LIEBMAN. I appreciate it.

Chairman ST GERMAIN. By the way, North Hollywood is close to Los Angeles, is it not?

Mr. LIEBMAN. It is actually a part of the city of Los Angeles.

Chairman ST GERMAIN. I want you to know we devoted just about all of our time Tuesday afternoon and night until 10 p.m. yesterday to California, to Los Angeles, rather, relative to the Olympic coin legislation.

Mr. LIEBMAN. So I understand, Mr. Chairman.

Chairman ST GERMAIN. Yes, and here we have another Californian, so it has been a California week for this Member.

Mr. LIEBMAN. Well, Mr. Chairman, in reference to your first comment regarding the California Legislature, again I am not—if I was ever aware of that specific activity which occurred in the legislature I have since forgotten it. In these circumstances, however, I feel reasonably certain in saying that the California Legislature has shown recently, I am happy to say, a remarkable enhancement of its export awareness and I think in these circumstances perhaps similar legislative activity could be undertaken perhaps to make room.

Chairman ST GERMAIN. That is what you think. Believe me, I have been through that one. I tried to get the message across. Approximately 28 States have adopted that legislation. As I stated earlier, I am just trying to avoid a donnybrook.

Mr. LIEBMAN. I understand.

Chairman ST GERMAIN. Mr. Liebman, on page 10 you state that initially a bank-sponsored ETC will employ experienced export management personnel. Earlier today Mr. George Taylor of Citytrust Bancorp, Bridgeport, Conn., stated that there are relatively few skilled managers in this area, a unique problem banks could encounter in efforts to establish and manage ETC's.

I just bring that up because on the one hand you feel that they have that expertise and yet, frankly, I was rather amazed this morning to hear Mr. Taylor's testimony that in their studies, looking forward to establishing an ETC, they find that this might be one of the problems they encounter initially.

They are not too certain as to how many skilled export managers or management people might be available. I am not asking you to comment on that unless you feel as though you can enlighten us. But there was some concern voiced this morning by Mr. Taylor

about the number of expert export management personnel that might be available.

Mr. LIEBMAN. Well, we too, Mr. Chairman, are concerned with that because we feel that for the export potential of the United States to be fully tapped, the professionalism of those engaged in export trade must also be commensurately elevated, and this, of course, is undertaken not only by our association but the district export councils throughout the country and other bodies, other trade associations, who devote great time and attention to the professionalization of that sector.

I do not know what this particular witness had in mind when he averted to that problem, but I can assure the committee that I believe that there exists in this country today not only the export management companies which I have described in southern California but their counterparts all over this country who would be more than happy to work in partnership with the banking community to make the export trading company a reality, because those are the people, I feel, that banks are going to have to look to for help in this area.

Chairman ST GERMAIN. Well, we certainly appreciate that offer, but staff of this subcommittee has been doing a great deal of work and I just recalled one of our staff members did an excellent paper, a lot of research, on this very point of competent, trained personnel, and he says:

> Recently much has been said about the phenomenal success, especially compared to the performance of United States, that German manufacturers have had in exporting their products. Contrary to popular belief, Germany has no organized trading companies. The German Government plays only a minor role in the export process. Their success is based on a decentralized, but highly efficient information-gathering system and on expertise fostered by educational programs concerning the technical problems associated with exporting. This expertise, combined with extensive product development programs and a unique set of financial institutions induce banks to provide easy access to export financing for both low risk and high risk loans. However, this structure is not legislated by the Government. It evolved over a period of time from Germany's historical need to export to maintain and improve its standard of living.

I will not read this entire paper to you and I do not bring it to your attention to be in any way critical of what we are doing, but it is just, amazingly enough, the German system—and I think as far as training, let me read this short excerpt from the paper:

> Most people who enter the export-import field do so through vocational school. At the age of 16 a potential export-import expert enters a dual training program which involves both practical and theoretical training. Half a typical week is spent working for a company gaining practical experience and the other half of the week is spent at an export-import school developing a theoretical background in export techniques.
>
> This type of school, as are all schools in Germany, is completely state supported. One could obtain an export-import degree by majoring in economics and languages at college while specializing in export-import facilitation. These people usually become managing directors of export-import divisions. The export-import divisions of large firms are usually headed by a person who has graduated from business school.

I was very fascinated when I read this paper that was prepared for me. I guess what it points out is that we have a lot of work ahead of us. We have a lot to do and certainly this is one of the reasons why I think it is so important to proceed.

I guess I might also observe to those who might have been present when I was talking to Secretary Baldrige, of course that covers the entire spectrum for us.

Mr. Moore, you are in machine tools and I think you will agree that technical personnel, plus just the machine tool operators and machinists—do you remember Taft-Pierce Manufacturing during World War II when they were working on Government work? All of a sudden I thought I was living in Great Britain rather than Woonsocket, R.I., because we had so many British people that came to work at Taft-Pierce. We just did not have the personnel.

So we do have problems in this area and in the technological area and in the skills. There is very definitely a lot to be done, but we have to start someplace. I have asked my staff, Mr. Moore, to send you a copy of a paper I delivered in Newport, R.I., about 2 months ago on the Defense Production Act and that set-aside I was talking about of defense funds for training skilled personnel.

Mr. MOORE. Thank you. I would be interested in reading that article.

Chairman ST GERMAIN. Mr. Fox.

Mr. FOX. Mr. Chairman, in addition to the point of the trained personnel, which I think is very valid, it is necessary to understand further the nature of the structure of German industry where really the average German manufacturing plant exports 40 or 45 percent of its goods. So from the very beginning it takes that into account.

Chairman ST GERMAIN. And this has been going on for years.

Mr. FOX. In the whole training system. With respect to the subject matter that is more germane to this legislation, of course, Germany does not try to separate banks from manufacturing companies, as we do, so all the major manufacturing companies have either stock ownership or participation of the banks in their very structure and it gives them an important advantage insofar as exports are concerned.

Chairman ST GERMAIN. But you have read also that some of those banks have been in very dire difficulties because they also extend very long-term loans to those firms in which they have an interest. As a result thereof about 6 or 8 months ago, lo and behold, a couple of the very best banks in West Germany all of a sudden for the first time in their history were not paying dividends to their stockholders because of the long-term loans at low rates that they were just stuck with. That would not occur here, you see.

I think we have the best banking system in the world in this country.

Mr. FOX. I am glad you made that comment, Mr. Chairman, because my observation is not that we emulate the Germans but that we provide sufficient financial support and through ways consistent with our banking structure. And I think your bill is designed to do that.

Chairman ST GERMAIN. Right, consistent with the safety and the soundness of our banking structure. Thank you.

Mr. McKinney.

Mr. MCKINNEY. Thank you, Mr. Chairman. I tend to agree with everything you said today, including the fact that we have the best banking system, if Sears does not take it over or Merrill Lynch.

Gentlemen, I was fascinated by your testimony. I was lucky enough to get my hands on most of it and be able to read it thoroughly. I am not going to ask any questions. I was going to sort of follow the chairman's point. We need a lot of things. We need an export policy in the United States of America to start with, not alone just export trading companies.

Recently I spent a fascinating weekend with the chairman of the board of the Sony Corp., Mr. Morita, and the chairman of the board of the Siemns Corp., Wolfgang Seelig, Mr. Chairman, both of these gentlemen, are, quite frankly, eating our lunch at the present moment as one of the expressions I have heard goes. Both said, if you all ever get organized you are going to terrify us, and I said us terrify you?

And they said absolutely. The United States of America can beat the pants off any country in this world if it ever gets organized, and I guess that is what we are in essence talking about today. It is quite unsettling not to be televised in this place unless it is a Sony TV camera.

But the adversarial relationship that we have set up because of our past ills, be it an outmoded antitrust law, be it in labor management, government—all at one another's throats—brings great delight to the hearts of our counterparts in England, Japan, and Germany, and their financing arrangements.

The rumor is out, though—I do not think any of us will know for a while—that not only was Eastern Airlines given the use of two A-300's, free use, for 6 months of a foreign plane, but that if they buy them they were giving financing at somewhere under 6 percent.

The British Government decided to continue to make Rolls Royce engines. Therefore, to market them they were willing to finance a whole L-1011 just to put three engines in and keep one spare out in the marketplace. That is the kind of competition we are up against.

I think each one of you witnesses today have all covered it in one way or the other. We are not really ready to jump off the cliff yet, but I hope we do pretty soon because we—I look at Moore Machine Tool. If Dick and Wayne Moore had not gone looking for a foreign market they would have been depending on the domestic market, and the domestic market has reached a point where you have to go outside.

We for so many years in this country have just looked at our own purchasing power while the whole rest of the world is growing up around us.

I congratulate you on your testimony and I think that survival is going to come from changing, realizing that we have to get to new markets. I am fascinated because Singer Sewing Machine people from Bridgeport, Conn., are selling Singer sewing machines to nomads and camels in Egypt. When they first came out in the domestic market it was colossal. The United States was spreading across the whole continent, but they still went out and sold.

Now that the domestic market has disappeared, we are not selling anything. The Japanese are selling us the sewing machines. There is a message there somewhere. Mr. Chairman, it is interesting to look at the things our foreign friends consider. They say, you

know your domestic car manufacturers talk about the Third World car market and we in Japan think the car market is pretty much saturated. In fact, we are paying a lot of money to MIT, of all places, to study the world car market.

I said how do you know it is saturated? He said all you do is pick up the new Rand McNally Atlas. I said why would you pick it up. He said because you have to find out how many miles of paved road have been built in a country in the last year. If they do not have any roads, they do not have any cars. Maybe we ought to start to think like that.

Sorry for the lecture, but I appreciated your testimony. One fast question. Mr. Liebman, we have a discussion going on here in another committee on another subject, safe harbor leasing. We in Washington, in New York City, California, everywhere else, are beginning to use that device for the purchase of transportation equipment.

I find it horrifying that we purchase it all from foreign sources, over 800 subway cars in New York alone from the two Japanese contracts. Do you think that we as a national policy should for basic, enormous capital goods purchases set up a special interest program so that we could once again have the Budd Co. or someone else do this sort of work?

Mr. LIEBMAN. That is not an easy question, Mr. Congressman.

Mr. MCKINNEY. It was not meant to be.

Mr. LIEBMAN. One part of me wants to say no very much because to create special interest considerations such as you have suggested really flies in the face of the free trade philosophy which I personally embrace, that each country should buy from the other countries what those countries can best produce and restrict itself in effect to making those products and services which it can do best.

And necessarily, every time that a sovereign nation deliberately sets about to alter that pattern it is asking for trouble in my personal belief.

On the other hand, we in our formal remarks, we mentioned some of the considerations which might derivate from that principle to be incorporated into this legislation, a different problem, that of giving each other the best break that we can get abroad in terms of ownership of export trading companies.

To suggest any reciprocity standard in the context of this legislation I think would be inviting the kind of problems the chairman has so ably sought to avoid and I am deliberately stepping back from that issue, especially since Mr. Fox took me to task for it the last time we appeared before a committee of the Congress on this legislation.

But getting back to your question, I suppose there are instances where we are essentially extending the largesse of the American taxpayer in one form or another to support activities which we deem to be in our national interest. In those instances we have to keep faith with those taxpayers and I think support of those activities in our country which you have mentioned.

Mr. MCKINNEY. I appreciate your answer. I was being a little sneaky. I was going to see if we could snare a little reciprocity in here, because, you know, that is in essence what is disturbing the

Congress, that every other country is doing this to favor their industries.

Thank you, Mr. Chairman.

Chairman ST GERMAIN. Mr. Vento.

Mr. VENTO. Mr. Chairman, I have no questions of the witnesses. I appreciate their patience in waiting today.

Chairman ST GERMAIN. The hearings on this legislation will resume on the 19th. There are some who are concerned and feel it is a delay. It is not a delay. However, under House rules, any legislation which has an appropriations impact or budgetary impact has to be reported from the full committee by May 15, and we do have a housing bill markup that we will be starting on next week and that unfortunately is going to take up a great deal of time in the committee, even though it is in the subcommittee. The Housing Subcommittee is rather popular and darn near all the members of the full committee are on the subcommittee, so you cannot run two subcommittees concurrently on that.

However, during that period of time between this afternoon and the resumption of those hearings, we and our staff are going to be working with the Fed, Treasury, and Commerce. We hope to address many of the problem areas that you gentlemen have addressed, as did the panel this morning, the other witnesses.

So that once we resume our hearings we should be able to act expeditiously. In other words, the interval will be used in such a manner as to provide for a rapid and quick markup once we conclude the hearings on May 19 and May 20. That is the Chair's hope at this time, and we are going to exert every effort in that direction.

So at this time I do want to thank you gentlemen for your patience, for your contribution, for your suggestions and recess the subcommittee to the call of the Chair.

[Whereupon, at 4:50 p.m., the subcommittee recessed, to reconvene upon the call of the Chair.]

THE BANK EXPORT SERVICES ACT

WEDNESDAY, MAY 19, 1982

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,

Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2128, Rayburn House Office Building, Hon. Fernand J. St Germain (chairman of the subcommittee) presiding.

Present: Representatives St Germain, Minish, LaFalce, Schumer, Wylie, Leach, McKinney, Lowery, and Wortley.

Also present: Representative Bill Alexander and Senators John Heinz and Paul Tsongas.

Chairman ST GERMAIN. The subcommittee will come to order.

Today the Financial Institutions Supervision, Regulation and Insurance Subcommittee continues its consideration of H.R. 6016, the Bank Export Services Act. This legislation is intended to enable the resources of bank holding companies to be committed to the national effort to increase U.S. exports of goods and services.

Our work, however, is but one dimension of the legislative initiative now underway in the House of Representatives. The Foreign Affairs and Judiciary Committees are each respectively weighing the international and antitrust issues involved. The Foreign Affairs Committee has already completed its portion of this important undertaking. The Banking and Judiciary Committees are expected to finish their work soon after the Memorial Day recess.

This morning I am pleased to welcome colleagues Representative Bill Alexander and Senator John Heinz.

Both of them are leading figures in bringing about consideration of export trading company legislation. Senator Paul Tsongas has been delayed and will join us, I understand, shortly after 11 o'clock. We will hear from him immediately following the testimony of Gov. Henry Wallich, an acknowledged expert in international trade and finance.

Without objection, the ranking minority member of the subcommittee, Mr. Wylie, has an opening statement that will appear in the record at this point.

[The opening statement of Mr. Wylie follows:]

Statement of
Rep. CHALMERS P. WYLIE, Ohio
Subcommittee on Financial Institutions
May 19, 1982
Hearings on H.R. 6016
Bank Export Services Act

Mr. Chairman:

As we begin this second day of hearings on export trading company legislation, I would just like to reiterate the basic position which I stated at the outset of these hearings. I support H.R. 6016 as a useful means of improving the export performance of American industry and creating jobs. There may be some obstacles to be overcome and some problems to be worked out, but I stand ready to do my part and to support whatever changes may be needed to improve prospects for the bill.

Today we will hear not only from ardent supporters of the bill, Senator Heinz and Representative Alexander, and the American Bankers Association but also from representatives of the Treasury and the Federal Reserve who will recommend some amendments in an effort to strike a reasonable balance between our desire to permit meaningful bank participation in export trading companies without creating an undue breach in the traditional separation between banking and commerce.

I look forward to the testimony with great interest and stand ready to work with all parties toward enactment of a balanced and workable bill.

I thank the Chairman.

Chairman ST GERMAIN. Gentlemen, we welcome you and Senator Heinz. We will put your entire statement in the record, and you may proceed.

STATEMENT OF HON. JOHN HEINZ, U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator HEINZ. Thank you, Mr. Chairman. I am very privileged to appear here, particularly as my former House colleague and your present colleague, Bill Alexander is here. And you are correct, Senator Tsongas has been delayed. He intends to come by around 11 o'clock, your schedule permitting.

And I am also extremely pleased to be here, Mr. Chairman, if I may say so, in large part because this hearing that you are holding today means we are nearing the end of a very long process, and it is largely due, if not almost entirely due, to your leadership.

As you are aware, Mr. Chairman, from the Senate's point of view, the question of export trading companies has indeed been a long process, since we have been working on this concept since 1978. And we have passed the bill twice in the Senate unanimously. Unfortunately, our action in 1980 came too late for adequate House consideration.

Our 1981 action, however, has been followed by full and careful House consideration of the measure. And I think we should all be pleased by the very thorough and very fair manner in which the bill has been considered.

We owe a particular debt of gratitude to you, Mr. Chairman, for perceiving the importance of this bill both to New England and to the Nation as a whole and for keeping the legislative process moving in a very constructive way.

Your bill H.R. 6016 is a thoughtful effort to come to grips with the basic issues raised by the export trading company concept. It is clearly the product of a thorough understanding of those issues, and it represents a good-faith effort to deal with the regulatory questions the legislation raises.

I know that when we get to conference, Mr. Chairman, the legislation will benefit from your grasp of the issues and your careful drafting in attempting to deal with them.

Turning to substance, it should come as no surprise that I and my cosponsors in the Senate prefer the Senate bill S. 734. But I think it is fair to say that we believe the differences in our approaches on the banking part of the bill are not great with you. And I would not anticipate any difficulty in resolving them in conference.

In concept, H.R. 6016 approaches the issue of banking regulation in much the same way as S. 734, with two major differences. First, bank investment in ETCs is only permitted through holding companies or Edge Act corporations and not by banks directly in your bill.

This restriction was considered carefully on the Senate side and in the end was not adopted, for two reasons: first, we felt that the restrictions built into the bill on bank capital that could be invested in the ETCs, the powers we gave to the regulators, and the limitations on ETC activities were more than sufficient to control any risk to the bank.

Second, we believe that the limitation to holding companies and Edges discriminates against smaller banks which do not have either Edges or holding companies. Granted, a bank could seek to establish a holding company for this purpose, but we did not see the need for that extra obstacle. In short, we felt the limitation gained little and imposed significant difficulty.

I was interested to hear proposals that banks with assets under a certain limit might be allowed to invest in ETCs directly, but that the large ones, those that already have holding companies or Edges, would be required to use them. This idea was not raised on the Senate side, and it does appear to meet my second objection.

I would also urge the subcommittee, if it retains the limitation we have just discussed, to include bankers, banks along with holding companies and Edges, thereby creating another option for small-bank involvement, essentially through a kind of consortium arrangement.

The second major difference between the House and Senate bills is the former's requirement that all investment be subject to regulatory approval. S. 734 has such a requirement only for controlling investments. This, too, is a matter on which reasonable people can differ, I must say, as in the previous case we on the Senate side believed that other safeguards in our bill make this unnecessary.

It was our conclusion that the necessity of having every investment approved was too onerous a regulatory burden for both sides. We believed this would discourage investment in export trading

companies and would divert an unnecessarily great proportion of regulatory resources to very little advantage.

I also understand that the Federal Reserve Board's interpretation of the International Banking Act of 1978 permits an Edge Act corporation to own up to 20 percent and $2 million of a nonbanking company engaged in international business without the approval of the Federal Reserve Board. In that respect, Mr. Chairman, your bill H.R. 6016 proposes a requirement that is, in fact, more strict than current law. And I personally do not see the need for that.

For all these reasons, I would recommend a higher approval threshold in the House bill. The subcommittee may not wish to use the controlling investment standard, but certainly requiring approval of all investments is both unnecessary and burdensome.

Beyond these two fundamental differences, there are a number of other provisions in the House bill which cause me some concern and which would, in my judgment, seriously hinder the operation of trading companies.

First, in the House bill the definition of export trading company as one engaged exclusively in exporting is a problem. This is apparently a reflection of the same concern the Senate had: that we promote the establishment of companies that will export American products. The bill is, after all, intended as export promotion legislation, and we are not interested as a matter of public policy in creating incentives to import. And let me tell you, in Pennsylvania, Mr. Chairman, we have enough problems with imports as it is. So in terms of policy, we have no difference.

But nonetheless, I suggest that to define an export trading company as one engaged exclusively in exporting, while that may appear to address a valid concern, it is a misplaced solution. Those presently engaged in international trade will point out the undesirability and virtual impossibility of directing trade in only one direction. In the real world, trading companies must sometimes accept goods in return for theirs, and they must be free to sell them in third markets or to import them. Not having that flexibility would severely, in my judgment, inhibit export trading companies and their operations.

We believe the Senate test of "principally engaged in exporting" meets the objective without discouraging trading company creation.

Second, H.R. 6016 omits insurance from the list of services an ETC can provide. As with one or two other aspects of the bill, this provision has met resistance from those currently providing the service who, frankly, do not want the competition. I understand their concern, but I believe the export-enhancing objective of the bill is more important. And I welcome, and I hope all of us would welcome the competition it will bring.

Mr. Chairman, all such questions about the function of the trading company miss what I believe should be the fundamental focus of our concern: the risk to the bank rather than to the trading company. It has been my belief throughout the debate over the ETC legislation that we do not face the development of large trading companies along the Japanese model that represent dangerous accretions of capital and market power.

The nature of labor-business-government relationships in the United States effectively precludes that, because they are histori-

cally adversarial, not cooperative like the Japanese. Thus, I see no need to pile restriction on restriction on the export trading company to prevent something that simply is not going to happen anyway, given the nature of our system.

Neither should we handicap the ETC to protect the bank's investment. The best protection for the bank is a healthy, profitable, growing trading company, not a sick one that cannot compete because we have buried it in statutory restrictions.

I would urge the subcommittee as a matter of policy to support the broadest range of authority for the export trading company and instead focus concern on bank investment and regulation aspects of the legislation, where the real issues lie.

One such issue, in addition to the two I mentioned earlier, is that of the limit on bank assets that can be invested in an ETC. Both bills set it at 5 percent of capital and surplus. But S. 734 would permit an additional 5 percent to be loaned to the ETC. In my judgment, this total of 10 percent is a safely low limit which nonetheless provides much needed flexibility compared to the lower level in the House bill.

Mr. Chairman, I have confined my comments today to the banking provisions of the trading company legislation, since that is what you are considering. You understand, of course, that we continue to strongly support the other parts of S. 734 relating to antitrust, and that we hope to go to conference with the House on the entire bill.

I was pleased to see the announcement that Congressman Rodino's Monopolies and Commercial Law Subcommittee will hold markup today on antitrust certification provisions for ETC's. I defer, nonetheless, Mr. Chairman, to your judgment and your experience, which can be invaluable in this instance, on how to package these various proposals for presentation to the House and ultimately the conference committee we would both like to go to.

I only urge you, Mr. Chairman, to do what is necessary to see that they are packaged. The success of the trading company concept depends upon the enactment of both parts. And I know you share my determination that the experiment we are embarking on be a successful one, one that will maximize export growth and minimize bank risk.

Let me close, Mr. Chairman, just by congratulating you on your leadership in moving this issue along and on the fair and judicious way you have proceeded. The legislation will be the better for it, and we thank you.

Chairman ST GERMAIN. Thank you for your testimony, Senator Heinz.

If our colleague, Mr. Alexander, does not mind, I think we will go through the questioning process with the Senator. Is that all right with you, Bill?

Mr. ALEXANDER. Sure.

Chairman ST GERMAIN. I might say that the good Senator has very deftly outlined the conference agenda for us this morning. Well done. And I would say again that I, too, would like to see them packaged so that we can reach the end of the line on this and get these companies functioning.

The reason that I introduced the bill in the manner I did, without the other sections, was frankly to get the thing off the ground. And it seems to be working.

Senator HEINZ. Mr. Chairman, I understand. We were very lucky over on the Senate side. We were able to handle this in only one committee. I do not envy the House or the chairmen of the three committees involved with having to handle it here. It is a tough job.

Chairman ST GERMAIN. I think Foreign Affairs has completed its action. However, we are again delayed. Tomorrow's hearings had to be called off because this committee has two bills on the floor. We are going to complete consideration as expeditiously as possible so that we can get to markup and then, hopefully, Judiciary will be within the same timeframe.

I might say that at this point in time I am giving strong consideration to eliminating the Edge Act corporations, and as a result thereof, that should do away with some of the agenda that might be in the conference and make it a great deal easier.

As to the contention that the limitations on the amount of investment and capital, et cetera, and participation would be protective enough of the export trading company, I still have a dire fear on that one because I think back to the REIT's. I am sure the good Senator recalls the fiasco there. No matter how you look upon it, there was the fact that a very large number of financial institutions in this country found themselves with their profits substantially reduced as a result of their sponsorship of and involvement in REIT's.

So there is much to talk about here. I am hopeful that reason will prevail.

Senator HEINZ. Mr. Chairman, could I comment on that point?

Chairman ST GERMAIN. Surely.

Senator HEINZ. I understand your concern about the real estate investment trusts. That was not a good situation. But as we all know, real estate in this country, because of the system of taxation, is a very heavily leveraged undertaking. And it is possible to get in great difficulty in real estate if you are a little bit, not just a lot, unlucky.

The characteristics of operating in commercial activities, international trade, buying and selling of goods, is not necessarily that highly leveraged. If you do get in trouble, you get in a little bit, not a lot, of trouble. You are not guaranteed to make a lot of money, but you are pretty well guaranteed that you are not going to lose a lot either. It can be a kind of steady, day-in and day-out operation. And it is not one which is going to rise or fall on long-term rates going up or down by several points.

So I would encourage you to consider, understanding your point of proper concern, to consider the difference in the kinds of enterprises involved.

Chairman ST GERMAIN. Well, the good Senator knows, as I do, that we are starting in a limited fashion here. When we set the amount of investment at a particular number, with the passage of time there will be pressures brought to bear to increase that number. You know, it is the case of the camel's nose under the tent.

On another item, the word "principally involved," I, too, appreciate, as do the members of this committee, the fact that export trading companies must be able to import as well as export, but I asked many witnesses who appeared here to define "principally", "substantially", "primarily"—and I received vague explanations. We may have to be a little more specific there, but it is an item for discussion.

I think we will arrive at the proper answer, keeping in mind the fact that the whole purpose for this legislation is, as you know, to increase exports and to favorably impact on our balance of trade. So, I look forward to our discussions in that area, and let us hope that we can find, whether it comes from your side or our side, the answer to that one.

Senator HEINZ. I think we both seek the same thing, Mr. Chairman.

Chairman ST GERMAIN. The other item is taking title to goods. There are times when this is necessary, as has been illustrated in the hearings, which have been very beneficial. But we want to look at this very carefully so that the export trading companies are, indeed, a device to promote trade and not to go into warehousing or speculation.

And as I say, I am very grateful for your testimony. It is a good opportunity to discuss this with each other and to see what we will be working on in the future. I am sure you and I, and our staffs, will be addressing this as we go along so that we do not end up with a lengthy conference, but a fruitful conference.

Senator HEINZ. Mr. Chairman, I thank you very much. I know our staffs have had many conversations. I really value their working relationship and thank you for taking under your roof today an escapee—only partially willing to go from the House, and it is nice to be back.

Chairman ST GERMAIN. Mr. Minish.

Mr. MINISH. Thank you, Senator, and, Mr. Chairman.

Senator, on page 5 you talk about the advisability of developing large trading companies along the Japanese model that represents dangerous accretions of capital and market power. Why do you oppose that?

Senator HEINZ. Why do I oppose that?

Mr. MINISH. You do not think we should get into that area.

Senator HEINZ. Well, I raise that issue, Joe, because some people do fear that you could have a Mitsubishi-type trading company in this country. And Mitsubishi does 70 billion dollar's worth of business. And clearly, we worry about the military-industrial complex around here from time to time. That would be a pretty big complex.

All I am trying to say is that this is unlikely to happen. There is just not that much to fear from a financial institution given the limits in the Senate bill, becoming involved either as a direct investor or a lender to a trading company, that will develop into some gigantic conglomerate that is going to take over the country or all of the trade in an area.

I am simply trying to point out the difference now. If you ask me am I personally against very, very strong trading companies, my answer to you is: No, I am not against them at all. All I am saying

is, given the structure of our country, we are very unlikely to have them.

Mr. MINISH. The reason I ask is in the next sentence you say the nature of labor-business-government relations in the United States effectively precludes that because they are historically adversarial rather than cooperative as in Japan. This is the one area where labor and management can get together.

Senator HEINZ. I agree with you.

By the way, I want you to know that in your remark concerning the military-industrial complex did not go unnoticed. Thank you. I will be back to see you over there one day. [Laughter.]

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Thank you.

Chairman ST GERMAIN. Mr. McKinney.

Mr. MCKINNEY. Thank you, Mr. Chairman.

I read your testimony, John, and I appreciate it. All of the questions you bring up are questions I think we have to answer. But I am really not as concerned as I used to be, because I see finally unanimity of effort here to get export trading legislation passed this year.

Mr. Chairman, I would like to ask unanimous consent to insert in the beginning of today's hearing some remarks by my colleague, Mr. Wylie, who was unfortunately not able to be here.

Chairman ST GERMAIN. Without objection, so ordered.

Mr. MCKINNEY. Thank you very much for coming, John.

Chairman ST GERMAIN. Mr. LaFalce.

Mr. LAFALCE. Mr. Chairman, I have no questions at this time. But I would like to commend our former colleague, John Heinz, for all of the excellent work that he has done in the Senate, picking up from Senator Stevenson in the previous Congress. And I, too, share so many of his thoughts.

As you well know, John, I introduced legislation which is basically your bill on the House side, and prefer it. But I think that this bill we are considering today is a very reasonable compromise, one that I can enthusiastically support with certain amendments and modifications. And I especially want to thank you for your leadership role in the U.S. Senate which has helped bring us to the point where we are today over in the House. Thank you.

Senator HEINZ. John, I thank you for those kind words. I commend you for your interest and commitment. And indeed, I think the work of every member of this subcommittee has just been excellent. Stu McKinney, Joe Minish, I appreciate your interest in trying to make something out of this that will work well for this country. I know that is your interest, and I think we are making great progress.

Chairman ST GERMAIN. Mr. Wortley.

Mr. WORTLEY. Thank you, Mr. Chairman.

Senator, since many of the functions that banks will perform have an equity position in this bill they currently perform, what advantage is there to hold an equity position in export trading companies as opposed to the services they now perform? There is a profit motive, of course. I recognize that. Is there anything else?

Senator HEINZ. We have had 5 years of hearings on this point over in the Senate. I will not replay all 5 years, because I don't

think that would be that welcome, but the one major difficulty regarding the ability to do business aside from antitrust was the underfunding of the kind of little export trading companies that we have today, their inability to get anybody really interested in lending them money.

It is a marginal activity, and without the ability of financial institutions, however we end up defining that particular category, to become involved in this, and without the export trading company being able to share in international expertise of banks, many of whom have correspondent relationships, or branches overseas, there is almost no economically feasible way for a trading company to grow or provide a broader range of business. We had a very nice witness from your State, from New York City, a man who had wanted to export shoe boxes to Italy, so at least when the Italian shoes came to the United States, they would be in American boxes, a small improvement. We used to manufacture a lot of shoes in Pennsylvania at one time.

He had several problems, but not the least of which was that he really had to go over there and do this trip through Europe himself. There was no one for him to turn to. He did not call up a bank. He was not an important enough customer of a bank for him to call up the international division and say, listen, check around for me, see if there is any interest in buying our boxes if we give them at such a price.

That is the kind of synergy that is possible through the involvement which comes about through the investment of financial institutions in export trading companies.

Mr. WORTLEY. Do you see other financial institutions other than banks investing?

Senator HEINZ. Not under the House or Senate bill at the present time. I suppose you could argue that there ought to be other people here, but frankly, it is the commercial banks not the insurance companies, not the S&L's, not the consumer credit people, that have these kinds of international operations, and that have these kinds of international concerns. That is what an Edge Act, of course, encourages.

Chairman ST GERMAIN. Be careful on that answer. I would state this to the good Senator. That is the one problem I have had, although I am willing to compromise on the small banks, because the large banks do have these international relations and functions, whereas very few smaller banks, indeed, do have that function.

Senator HEINZ. That is true, Mr. Chairman, although there are many medium-sized regional banks that have come to us and said, permit us to do this, because this is one way that we can get overseas, and it will give us a purpose, a mission. We cannot be a full service international bank. Let us specialize, they say, in a few areas. Let us specialize in having an export trading company to ship grain out of Chicago or out of the Middle West, and we will take on some of these big guys, and we will show them what competition is really all about. That is why I urge you to permit a mechanism for the smaller banks to be involved here, because they see this as a great opportunity to get at the big guys, not going at them frontally as they now have to do, but going in areas where

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they think they can have a competitive advantage through some kind of specialization.

Chairman ST GERMAIN. Well, as I said, I am not in concrete. I probably will be amenable to that, but that is one of the problems I have had. You know, the small country bank. However, that is another item.

Senator HEINZ. Are you ready to let that small country bank do business in Pennsylvania, Mr. Chairman? I hope you will check with us before you endorse the repeal of McFadden? I do not think we are too far apart on that.

Chairman ST GERMAIN. I am sorry for interrupting, George.

Mr. WORTLEY. Thank you, Mr. Chairman.

Thank you, Senator.

Senator HEINZ. Thank you.

Chairman ST GERMAIN. Any other questions?

[No response.]

Chairman ST GERMAIN. If not, Senator, we thank you very deeply, and I mean this sincerely.

Senator HEINZ. Mr. Chairman, thank you. It is a pleasure, as always.

Chairman ST GERMAIN. And we look forward to conference at an early date.

Senator HEINZ. Might I also, Mr. Chairman, thank my friend, Bill Alexander, for permitting me to take his time?

[The prepared statement of Senator Heinz follows:]

SENATOR JOHN HEINZ MAY 19, 1982

Testimony Before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance and Urban Affairs on H.R. 6016, the Bank Export Services Act.

Mr. Chairman, I am particularly pleased to be here today, in large part because this hearing means we are nearing the end of a long process, thanks to your leadership.

As you are aware, Mr. Chairman, from the Senate's point of view this has, indeed, been a long process, since we have been working on this concept since 1978 and have passed the bill twice unanimously. Unfortunately, our action in 1980 came too late for adequate House consideration. Our 1981 action, however, has been followed by full and careful House review of the measure, and I think we all should be pleased by the thorough and fair manner in which the bill has been considered.

We owe a particular debt of gratitude to you, Mr. Chairman, for seeing the importance of this bill -- both to New England and the nation as a whole -- and for keeping the legislative process moving in a constructive way. Your bill, H.R. 6016, is a thoughtful effort to come to grips with the basic issues raised by the export trading company concept. It is clearly the product of a thorough understanding of those issues, and it represents a good faith effort to deal with the regulatory questions the legislation raises. I know that when we get to conference, Mr. Chairman, the legislation will benefit from your grasp of the issues and your careful drafting in attempting to deal with them.

Turning to substance, it should come as no surprise that we prefer the Senate bill, S. 734, but I think it is fair to say that

we believe the differences in our approaches on the banking part of the bill are not great, and I would not anticipate difficulty in resolving them in conference.

I am tempted at this point to get into some detail about our current export situation and the need for export trading company legislation, but I think the witnesses that appeared before you last month did an excellent job of that, and I believe the case is well-established. Moreover, the long list of cosponsors on your bill, Mr. Chairman, as well as those on other bills, attest to the widespread support this legislation has gathered. Simply put, this is an idea whose time has come, and rather than belabor that point, I would like to spend my last few minutes making some specific comments on H.R. 6016.

The Bank Export Services Act

In concept, H.R. 6016 approaches the issue of bank regulation in much the same way as S. 734, with two major differences. First, bank investment in ETCs is only permitted through holding companies or Edge Act Corporations, and not by banks directly. This restriction was considered carefully on the Senate side and in the end was not adopted for two reasons. One, we felt that the restrictions built into the bill on bank capital that could be invested in the ETC, the powers we gave to the regulators, and the limitations on ETC activities were more than sufficient to control any risk to the bank. Two, we believed that a limitation to holding companies and Edges discriminated against the smaller banks which did not have them. Granted, a bank could seek to establish a holding company for this purpose, but we did not see the need for that extra obstacle. In short, we felt the limitation gained little and imposed a signif-

icant difficulty.

I was interested to hear of proposals that banks with assets under a certain limit might be allowed to invest in ETCs directly, but that the large ones -- those which already have holding companies or Edges -- would be required to use them. This idea was not raised on the Senate side, and it does appear to be one way to meet my second objection.

I would also urge the Subcommittee, if it retains the limitation, to include bankers' banks along with holding companies and Edges, thereby creating another option for small bank involvement, essentially through a kind of consortium arrangement.

The second major difference between H.R. 6016 and S. 734 is the former's requirement that all investment be subject to regulatory approval. S. 734 has such a requirement only for "controlling" investments.

This, too, is a matter on which reasonable people can differ. As in the previous case, we believe the safeguards in our Senate bill make this unnecessary. We also concluded that the need to have every investment approved was too onerous a regulatory burden for both sides. It would discourage investment in ETCs, and it would divert an unnecessarily great portion of regulatory resources to little advantage. I also understand that the International Banking Act of 1978 permits an Edge Act Corporation to own up to 20 percent and $2 million of a nonbanking company engaged in international business without the approval of the Federal Reserve Board. In that respect, H.R. 6016 proposes a requirement more strict than current law, and I fail to see the need for it.

For all these reasons, I would recommend a higher approval thres-

hold. The Subcommittee may not wish to use the controlling investment standard, but certainly requiring approval of all investments is both unnecessary and burdensome.

Beyond these two fundamental differences there are a number of other provisions of H.R. 6016 which cause me some concern and which would, in my judgment, seriously hinder the operation of trading companies.

First. H.R. 6016 defines a trading company as one engaged "exclusively" in exporting. This is apparently a reflection of the same concern the Senate had -- that we promote the establishment of companies which will export American products. The bill is, after all, intended as export promotion legislation, and we are not interested, as a matter of policy, in creating incentives to import. In Pennsylvania we have enough problems with imports already.

This concern is a valid one, but the proposed solution is misplaced. Those presently engaged in international trade will point out both the undesirability and virtual impossibility of directing trade in only one direction. In the real world trading companies must sometimes accept goods in return for theirs and then must be free to sell them in third markets or import them. Not having that flexibility would severely inhibit ETC operations. We believe the Senate test of "principally" engaged in exporting meets the objective without discouraging ETC creation.

Second, H.R. 6016 omits insurance from the list of services an ETC can provide. As with one or two other aspects of the bill, this provision has met resistance from those currently providing the service, who, frankly, do not want the competition. I understand their concern, but I believe the export enhancing objective of the bill is

more important, and I welcome the competition it will bring.

This issue is similar to that of whether the ETC should be allowed to take title to goods. Although both our bills agree on this point, you raised it as an issue in your letter to Secretary Baldrige.

All such questions about the functions of the trading company miss what I believe should be the fundamental focus of our caution: the risk to the bank rather than the trading company. It has been my belief throughout the debate over ETC legislation that we do not face the development of large trading companies along the Japanese model that represent dangerous accretions of capital and market power. The nature of labor-business-government relationships in the United States effectively precludes that because they are historically adversarial rather than cooperative, as in Japan. Thus I see no need to pile restrictions on the ETC in order to prevent something that will not happen anyway.

Neither should we handicap the ETC to protect the bank's investment. The best protection for the bank is a healthy, profitable, growing trading company, not a sick one that can't compete because of statutory restrictions. I would urge the Subcommittee as a matter of policy to support the broadest range of authority for the ETC and instead focus concern on the bank investment and regulation aspects of the legislation, where the real issues lie.

One such issue, in addition to the two I mentioned earlier, is that of the limit on bank assets that can be invested in an ETC. Both bills set it as five percent of capital and surplus, but S. 734 would permit an additional five percent to be loaned to the ETC. In my judgment this total of ten percent is a safely low limit which nonetheless provides more needed flexibility than the lower level in

H.R. 6016.

Mr. Chairman, I have confined my comments today to the banking provisions of trading company legislation, since that is what you are considering. You understand, of course, that I continue to strongly support the other part of S. 734 relating to antitrust, and that we hope to go to conference with the House on the entire bill.

I was pleased to see the announcement that Congressman Rodino's Monopolies and Commercial Law Subcommittee will hold markup today on antitrust certification provisions of trading company legislation. I defer to your judgment and experience, Mr. Chairman, on how best to package these various proposals for presentation to the House and ultimately the conference committee. I only urge that they be packaged. The success of the ETC concept depends on the enactment of both parts, and I know you share my determination that this experiment we are embarking on be a successful one that will maximize export growth and minimize bank risk.

Let me close, Mr. Chairman, by congratulating you both on your leadership in moving this issue along and on the fair and judicious way you have proceeded. This legislation will be the better for the time and care you have given it. I will look forward to seeing you in conference soon.

Chairman ST GERMAIN. Now we will hear from our distinguished colleague and our friend, Bill Alexander, who is the chief deputy majority whip and a very energetic supporter of export trade legislation. Mr. Alexander.

STATEMENT OF HON. BILL ALEXANDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

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

I come here today wearing a different hat from the one that most of you see me wearing most of the time. I am not here today to lead an assault on Republicans. I am here to promote the cause of trade, and I would like to introduce myself to you in that respect, because I feel that maybe a lot of you do not know me in that regard.

For 4 years I have been a member of the President's Export Council. I was reappointed this year on the recommendation of the Speaker. During the Carter administration, I was on the Executive Committee of that Council, and I served on the Export Promotion Subcommittee and the Subcommittee on Agricultural Trade. Some several years ago, I helped organize the House Export Task Force, which is now chaired by Don Bonker, and I serve as secretary, and I encouraged and assisted in the organization of the Senate Export Caucus over on the other side.

In order to do something about this subject, I organized the Mississippi Valley International Trade Center, which is an export trading company associated with Arkansas State University, and a nonprofit organization I have had the experience of dealing with export trading companies from a nonprofit point of view, which is not very profitable.

A couple of years ago, in order to become more involved and informed about the problems of exporting companies, I bought some U.S. products and exported them to the European Economic Community at a loss to learn the experiences that exporters encounter. So, I come to you with those experiences in support of the effort that is being made here today.

I suppose I have the interest of exporting in my heart, because my State, Arkansas, is an export State with many of our jobs and much of our income dependent upon export trade. We learn at an early age in my State that exports are important. Last year, by reference, $1.1 billion in farm products were sold from my State into international trade, and $750 million in manufactured products.

A minute ago, my colleague, John Heinz, said they used to produce shoes in Pennsylvania. I have 16 shoe manufacturing plants in my district, and we not only manufacture shoes, we export them into the European market. Sometimes I expect they put Paris labels on some of those shoes and sell them back in New York.

Chairman ST GERMAIN. How many of those companies originally were up in New England?

Mr. ALEXANDER. In fact, I have some very good friends from your State that are in my State and they are doing very well.

One of 13 manufacturing jobs in Arkansas is supported by exports, and ⅓ agricultural jobs, so exports are vital to our economy in my home State of Arkansas, and I speak to you with that refer-

ence in order to support my concern for a national effort to export more of our products.

Many of our people say that we are not an exporting Nation, and we are not, if you look at the percentage of exports to gross national product. We are last on the list, deriving only 6.7 percent of our gross national product from export sales, compared to 12 percent for Japan and 47 percent by the Netherlands. We all know those figures. One of the reasons that my State is able to export so competitively is because we utilize the waterways to provide cheap transportation to international markets.

We have much, much greater potential than we have seen for export. We are exporting our wealth through trade imbalance, which this year is estimated to be about $28 billion. This contributes to our inflation and decline of the American standard of living. I think the work that you are doing here is more important to stabilizing our currency and our economy than much of the work that we see around Washington.

We have, in effect, erected trade barriers for small business and medium size manufacturers and producers in this country, without desiring to do so. Of the food sales into international trade 80 to 85 percent are handled by six national and multinational companies—six national and multinational companies. Over 90 percent of the income in international sales is earned by less than 10 percent of the companies in the United States.

Our people that are associated with small producers and medium size producers can compete. They can produce quality products at competitive production costs, but they need some assistance in order to enter the field of international trade. Our people want to do that, but they are unable to do so because of the trade barriers that we have erected against our own people to compete in international trade. This barrier to our people is evident from watching the experience of Japan and the European Economic Community countries that have utilized the export trading company concept.

As I said a minute ago, I helped organize the Mississippi Valley International Trade Center, and we have had considerable experience in trying to promote trade by or with small companies. We had been very successful up to the point that the severe cutbacks occasioned by the current administration caused its closing. We were exporting shoes to Europe and food to other parts of the world. That company found that services are needed to enhance small and medium size producers to identify, develop, and maintain contacts with potential foreign customers, develop and maintain those contacts, provide transportation assistance at reasonable rates, and also provide banking and financial arrangements.

Mr. Chairman, in general, I support this effort which is embraced in H.R. 6016. However, I have some concerns about it, some of which were addressed by our colleague a minute ago, and that is that this bill may inhibit the full range of trade activity that is desirable if the United States is to become a full trading nation. Language in the bill limiting the activities of an export trading company to a company "which is organized and operating exclusively for goods and services produced in the United States or facilitating their exports" may unduly limit the success of the U.S. trading companies.

In international trade experiences, Mr. Chairman—I have discovered in dealing with the trade center out in Arkansas—in most instances where you deal with countries that are developing, like the Peoples' Republic of China, with whom we had a great deal of exchange bartering must be allowed. China wanted United States products, especially food products like wheat and soybeans and potentially rice, but they did not have currency, so they wanted to exchange or barter in marble or oil for food, together with maybe cash to make up the difference. If you have a company that is limited exclusively to exporting U.S. products, then you limit the activities to barter or to trade in international commerce.

In some instances, we discovered that the country that we were dealing with wanted to involve an exchange or trade with a third country. Maybe they wanted to send rice to Cambodia, and wanted to exchange something that Cambodia would produce in exchange for products that the United States would sell directly to China. To limit the activities of the trading company to those countries that deal with organizing and operating exclusively for goods and services produced in the United States you limit the ability of a company to deal in the real world of international trade. They must have more flexibility to barter, to trade, enter into trade with third countries, and to exchange products and currency when transactions involve the sale of U.S. products in international trade.

So, what we are doing is, we are taking an important step, because to this point we have been unwilling to deal in the real world. The real world involves large trading companies, the likes of which we see in Japan, that have been enormously successful, Following their leadership and authorizing trading companies is a step in the right direction, but I am afraid we are tying our hands somewhat in restricting the activities of the U.S. trading companies to deal in the real world of international trade. I think some changes in the language has have been battered around by companies that deal principally in international trade or some modification of the word "exclusively" would enhance the ability of our companies to deal in the real world, and I would recommend a discussion of that change.

Chairman ST GERMAIN. Has the gentleman completed his statement?

Mr. ALEXANDER. Yes, sir.

Chairman ST GERMAIN. Without objection, we will put your entire written statement in the record.

[The prepared statement of Mr. Alexander follows.]

TESTIMONY
OF
CONGRESSMAN BILL ALEXANDER
BEFORE THE
SUBCOMMITTEE ON
FINANCIAL INSTITUTIONS, REGULATION AND INSURANCE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I APPRECIATE HAVING THE OPPORTUNITY TO TESTIFY ON EXPORT TRADING COMPANY LEGISLATION. AS YOU KNOW, VARIOUS PIECES OF TRADING COMPANY LEGISLATION HAVE BEEN BEFORE THE CONGRESS FOR THE LAST FEW YEARS BUT PROBLEMS HAVE ARISEN WHICH DERAILED ANY FINAL PASSAGE OF THIS LEGISLATION. I CONGRATULATE YOU, MR. CHAIRMAN, ON CONFRONTING THESE PROBLEMS AND PRODUCING A BILL WHICH I BELIEVE WILL BECOME THE BASIS FOR INCREASED EXPORTS AT THE SMALL AND MEDIUM-SIZED BUSINESS LEVEL. IN ADDITION, I AM PLEASED TO HAVE HAD A PART IN DEVELOPING THE ENTHUSIASTIC SUPPORT FOR THE ENACTMENT OF EXPORT TRADING COMPANY LEGISLATION WHICH IS BEING GIVEN THIS EFFORT BY THE PRESIDENT'S EXPORT COUNCIL, AND THE HOUSE EXPORT TASK FORCE, BOTH OF WHICH I AM A MEMBER.

OUR TRADE COMPETITORS IN JAPAN AND EUROPE HAVE EFFECTIVELY UTILIZED THE EXPORT TRADING COMPANY CONCEPT FOR YEARS TO THE DISTINCT DISADVANTAGE OF UNITED STATES EXPORT PERFORMANCE. I AM NOT GOING TO GO INTO THE MANY WAYS IN WHICH AN EXPORT TRADING COMPANY CAN BE OF BENEFIT TO SMALL AND MEDIUM-SIZED PRODUCERS. THAT TASK HAS AND WILL BE PERFORMED BY THE EXPERTS WHICH THIS SUBCOMMITTEE HAS HEARD AND WILL HEAR FROM IN THESE HEARINGS. SUFFICE IT TO SAY THAT AN EXPORT TRADING COMPANY CAN PROVIDE A VARIETY OF SERVICES FOR ITS MEMBERS INCLUDING FINANCING, FREIGHT HANDLING, MARKET ANALYSIS, AND LEGAL ADVICE.

MR. CHAIRMAN, I COULD SIT HERE AND SPOUT OUT FACTS AND FIGURES ON TRADE IMBALANCES, ON THE NEED TO EFFECTIVELY COMPETE WITH OUR TRADE COMPETITORS, OR CONGER UP FOR THE SUBCOMMITTEE THE ENTIRE LITANY OF TRADE ISSUES WHICH WE CONSTANTLY DISCUSS IN CONGRESS. INSTEAD, I WOULD LIKE TO DISCUSS WHAT ETC LEGISLATION CAN MEAN TO MY FIRST CONGRESSIONAL DISTRICT IN ARKANSAS. THE BANK EXPORT SERVICES ACT WILL PROVIDE THE OPPORTUNITY FOR SMALL AND MEDIUM-SIZED AGRICULTURAL AND MANUFACTURING INTERESTS TO ENTER THE WORLD OF INTERNATIONAL TRADE WITH A MINIMUM OF RISK.

PRIVATE SECTOR JOB OPPORTUNITIES AND PRIVATE SECTOR ECONOMIC ACTIVITY IN FIRST CONGRESSIONAL DISTRICT OF ARKANSAS, AS IN MANY OTHER DISTRICTS ACROSS THE NATION, ARE PRIMARILY DEPENDENT ON SMALL AND MEDIUM-SIZED BUSINESSES. STUDY AFTER STUDY IN AND OUT OF GOVERNMENT DOCUMENT THE

FACT THAT AMERICA NEEDS TO EXPAND ITS EXPORTING ACTIVITIES TO STRENGTHEN OUR NATIONAL ECONOMY AND THAT THE MAJORITY OF OPPORTUNITIES FOR EXPANDING EXPORTS RESTS HEAVILY ON THE INTEREST IN AND ABILITY OF SMALL AND MEDIUM-SIZED BUSINESSES, INCLUDING FARMERS, TO GET INTO OR INCREASE THEIR EXPORTING ACTIVITIES.

EXPERIENCE HAS TAUGHT US THAT SMALL AND MEDIUM-SIZED OPERATORS, BECAUSE OF THEIR NARROW RESOURCES, WHEN ACTING ALONE, HAVE AN EXTREMELY LIMITED CAPACITY FOR MANAGING ACTIVITIES AS COMPLEX AS EXPORT MARKET DEVELOPMENT AND MAINTENANCE. BUT, PRODUCERS WHO ARE ABLE TO ACT IN COALITION WITH PROVIDERS OF OTHER SERVICES SUCH AS PROCESSING, FINANCING, INSURANCE, TRANSPORTATION, WAREHOUSING, LEGAL COUNSEL, CAN BE SUCCESSFUL EXPORTERS. THE LEGISLATION WHICH YOU HAVE UNDER CONSIDERATION COULD MAKE SUCH COALITIONS POSSIBLE.

FIRST CONGRESSIONAL DISTRICT AND ARKANSAS PRODUCE SUCH ITEMS AS RICE, COTTON, SOYBEANS, POULTRY, DAIRY PRODUCTS, SHOES, AGRICULTURAL MACHINERY, ELECTRONIC PRODUCTS, CHEMICALS, AND PLASTIC PIPE, TO NAME JUST A FEW. WE ALREADY KNOW THERE IS AN EXPORT MARKET FOR THESE GOODS ABROAD.

AS A MATTER OF FACT, SEVERAL ARKANSAS MANUFACTURING AND AGRICULTURAL CONCERNS ARE ALREADY EXPORTING ON A MINOR SCALE. EXPORT TRADING COMPANIES WILL ALLOW THESE GROUPS TO EXPAND OPERATIONS AND WILL ENTICE THOSE OTHERS WHO HAVE DEBATED ENTERING THE EXPORT MARKET TO AT LEAST DISCUSS THE POSSIBILITY WITH THEIR BANKERS AND FELLOW BUSINESSMEN.

YOU MIGHT ASK YOURSELF, WHY IS A CONGRESSMAN FROM AMERICA'S HEARTLAND, THOUSANDS OF MILES FROM THE OCEAN AND SEA PORTS CONCERNED AT ALL ABOUT EXPORT TRADING COMPANIES AND INTERNATIONAL TRADE. MR. CHAIRMAN, ONE GLANCE AT A U.S. MAP WILL ANSWER THOSE QUESTIONS. MY DISTRICT AND MY STATE SIT ASTRIDE THE GREATEST RIVER IN THE WORLD WHICH COURSES DOWN TO ONE OF THE GREAT OCEAN PORTS IN THE WORLD. I REFER TO THE MISSISSIPPI RIVER AND THE CITY OF NEW ORLEANS. MY ENTIRE DISTRICT LIES BESIDE AN INLAND OCEAN JUST WAITING TO CARRY ARKANSAS EXPORTS TO THE FAR CORNERS OF THE GLOBE. ENACTMENT OF EXPORT TRADING COMPANY LEGISLATION WILL, I BELIEVE, TRIGGER SUCH AN EXPLOSION.

MOST ARKANSANS ARE UNAWARE OF THE IMPORTANCE OF EXPORTS TO OUR STATE. IN FACT, MOST AMERICANS ARE LESS CONCERNED ABOUT EXPORTS THAN THE PEOPLE OF ANY OTHER MAJOR INDUSTRIAL NATION. THIS IS AT LEAST PARTIALLY DUE TO THE FACT THAT UNTIL RECENT YEARS GEOGRAPHY AND THE FAVORABLE BALANCE OF TRADE HAVE LULLED US INTO AN EXAGGERATED SENSE OF SELF-SUFFICIENCY.

YET THE FACTS ARE THAT AN ESTIMATED 15,000 JOBS IN ARKANSAS ARE DEPENDENT ON EXPORTS OF MANUFACTURED GOODS--

ABOUT 1 OF EVERY 13 MANUFACTURING JOBS IN THE STATE. ARKANSAS RANKS ELEVENTH NATIONALLY IN THE EXPORT OF AGRICULTURAL PRODUCTS. IN FY 1981 AGRICULTURAL EXPORTS FROM THIS STATE TOTALLED $1.1 BILLION, INCLUDING $130 MILLION IN SOYBEANS AND $575 MILLION IN RICE. MUCH OF THESE COMMODITIES WERE PRODUCED IN THE 24 COUNTIES OF THE FIRST CONGRESSIONAL DISTRICT--ONE OF THE MOST IMPORTANT AND PRODUCTIVE AGRICULTURAL AREAS IN THE WORLD.

PUT ANOTHER WAY, IN ARKANSAS FARM SALES, $2 OUT OF EVERY $5 CAME FROM EXPORTS. AS YOU CAN SEE, THE POTENTIAL FOR CONTINUED GROWTH EXISTS.

IN ADDITION TO AGRICULTURAL PRODUCTS, ARKANSAS EXPORTS APPROXIMATELY $750 MILLION WORTH OF OTHER PRODUCTS AND SERVICES ANNUALLY.

RECORDS ON MARKETING U.S. AGRICULTURAL EXPORTS MAKE IT CLEAR THAT SUCH EXPORTS ARE PRINCIPALLY CONTROLLED BY FIVE TO SIX MAJOR, ESSENTIALLY MULTINATIONAL CORPORATIONS. FURTHER, WE KNOW THAT IN ORDER FOR AMERICAN GROWERS TO FIND SALES FOR THEIR PRODUCTS, MORE THAN HALF OF THE ANNUAL PRODUCTION OF SOYBEANS, WHEAT AND RICE, AND ABOUT ONE-THIRD OF CORN MUCT BE EXPORTED. THUS, IN PRACTICAL EFFECT, THE GIANT EXPORTING CORPORATIONS HOLD A MAJOR SHARE OF THE CONTROLLING LEVERAGE OVER FARMGATE PRICES FARMERS RECEIVE FOR THESE PRODUCTS.

THUS, THE NEED IS MAGNIFIED FOR LEGISLATION SUCH AS YOU HAVE UNDER CONSIDERATION, WHICH WOULD ALLOW COOPERATIVE, PROFITABLE AND LEGAL COOPERATION BETWEEN FARMERS, PROCESSORS, FINANCIAL INSTITUTIONS, INSURANCE PROVIDERS, TRANSPORTERS, WAREHOUSING OPERATIONS, LEGAL SPECIALISTS, AND EXPORT MARKETING SPECIALISTS IN THE SMALL AND MEDIUM-SIZED RANGE. AT A MINIMUM, IT WILL INCREASE THE POTENTIAL FOR FARMERS TO GAIN GREATER CONTROL OVER THEIR ECONOMIC FATE IN TERMS OF THE FARMGATE PRICES THEY CAN COMMAND FOR THEIR PRODUCTS.

MORE THAN A DECADE AGO, I BEGAN WORKING TO STIMULATE INCREASED EXPORTS FROM MY STATE BY TALKING WITH FARMERS, BUSINESSMEN, INDUSTRIALISTS, FINANCIAL AND LEGAL EXPERTS IN AND OUT OF ARKANSAS. I REACHED THREE CONCLUSIONS:

FIRST, FOREIGN MARKETS OFFER TREMENDOUS ADDITIONAL POTENTIAL FOR ARKANSAS PRODUCERS;

SECONDLY, ARKANSAS PRODUCERS, WITH SOME OBVIOUSLY NOTABLE EXCEPTIONS, ARE RELATIVELY UNFAMILIAR WITH EXPORT MARKET DEVELOPMENT AND SALES; AND

THIRDLY, ALL THE SYSTEMS AND FACILITIES CAPABLE OF BEING USED FOR EXPORTING--I INCLUDE PRODUCTION, PROCESSING, STORAGE, FINANCING, INSURANCE, TRANSPORTATION AND TRAINING--ARE TO SOME DEGREE IN PLACE, BUT ARE LARGELY UNCOORDINATED AND UNDERUTILIZED.

BASED ON THESE FINDINGS AND WITH FUNDING FROM THE ECONOMIC DEVELOPMENT ADMINISTRATION, I HELPED DEVELOP THE MISSISSIPPI VALLEY INTERNATIONAL TRADE CENTER (MVITC), A NON-PROFIT, UNIVERSITY-CONNECTED FACILITY DESIGNED TO BECOME A SELF-SUPPORTING OPERATION PROVIDING TECHNICAL ASSISTANCE TO SMALL AND MEDIUM-SIZED OPERATORS.

THE MISSISSIPPI VALLEY INTERNATIONAL TRADE CENTER IN JONESBORO WAS DESIGNED TO BRIDGE THE GAP BETWEEN THE DESIRE OF THE INDIVIDUAL PRODUCER TO EXPORT AND HIS ABILITY TO SUCCESSFULLY DO SO.

IN DEVELOPING THE TRADE CENTER CONCEPT AND IN ITS ACTUAL OPERATION WE FOUND AND DOCUMENTED A NUMBER OF FUNDAMENTAL PROBLEMS SMALL AND MEDIUM-SIZED OPERATORS HAVE AND, IF FORCED TO OPERATE ALONE, WILL CONTINUE TO HAVE IN OPERATING IN THE INTERNATIONAL TRADE ARENA. THESE INCLUDE IDENTIFYING, DEVELOPING AND MAINTAINING CONTACTS WITH POTENTIAL FOREIGN CUSTOMERS, DEVELOPING AND MAINTAINING FINANCING FOR DAILY EXPORT OPERATIONS AND FOR SALES; DEVELOPING AND MAINTAINING EFFECTIVE AND ECONOMICAL TRANSPORTATION ARRANGEMENTS; OBTAINING, AT REASONABLE RATES, THE NECESSARY INSURANCE PROTECTION; AND OBTAINING THE NECESSARY LEGAL ASSISTANCE AT THE TIMES NEEDED AND IN A MANNER THAT KEEPS THE EXPORTING OPERATION ECONOMICALLY VIABLE.

UNDER THE LEADERSHIP OF BOARD CHAIRMAN MIKE WILSON (AND BILL JONES BEFORE HIM) AND WITH THE EXPERTISE PROVIDED BY PAT BURNS AND GENE RANSON, BOTH SEASONED TRADERS, THE MVITC WAS GEARED UP TO PROVIDE A WEALTH OF EXPORT SERVICES THAT WERE HERETOFORE NOT READILY AVAILABLE IN EITHER THE PUBLIC OR PRIVATE SECTOR, TO THE SMALLER AND MEDIUM-SIZED OPERATORS.

THE MVITC PROVIDED TECHNICAL ASSISTANCE FOR FINANCING, INSURANCE, AND LEGAL MATTERS. IT IDENTIFIED AND ARRANGED SHORT AND LONG TERM TRADING AGREEMENTS. IT ASSISTED IN THE DEVELOPMENT OF MARKETING AND SALES STRATEGIES. IT MATCHED UP REGIONAL PRODUCTS WITH APPROPRIATE OVERSEAS MARKETS. IT ARRANGED EDUCATIONAL, TECHNOLOGICAL AND COMMERCIAL EXCHANGE PROGRAMS TAILORED TO THE NEEDS OF LOCAL PRODUCERS. IT PROVIDED COORDINATION AND PLANNING FOR EFFECTIVE USE OF REGIONAL PORT FACILITIES. IT ACTED AS A SURROGATE EXPORT DIVISION FOR SMALLER AND MEDIUM-SIZED FIRMS SEEKING OVERSEAS MARKETS AND BEGAN TO TELL THE ARKANSAS PRODUCER EVERYTHING HE ALWAYS WANTED TO KNOW ABOUT EXPORT TRADE BUT WAS AFRAID TO ASK. IN SHORT, IT WAS AN EXPORT TRADING COMPANY.

FOR A VARIETY OF REASONS, BUT PRIMARILY DUE TO THE PREMATURE WITHDRAWAL OF FEDERAL SUPPORT BEFORE THE CENTER REACHED THE SELF-SUPPORTING STAGE, THE MVITC SUSPENDED OPERATIONS LAST YEAR. HOWEVER, LACK OF ENTHUSIASM WAS NEVER A PROBLEM.

I BELIEVE THAT WITH PASSAGE OF ETC LEGISLATION THE MVITC CAN RESUME OPERATION ON SOUNDER FOOTING AND WITH BETTER AND MORE COMPLETE SERVICES. THIS WILL PROVE BENEFICIAL NOT ONLY TO THE STATE OF ARKANSAS BUT TO THE ENTIRE U.S. ECONOMY.

AGAIN, MR. CHAIRMAN, I APPRECIATE HAVING THE OPPORTUNITY TO APPEAR BEFORE YOU AND I LOOK FORWARD TO WORKING WITH YOU TOWARD THE SUCCESSFUL ENACTMENT OF EXPORT TRADING COMPANY LEGISLATION.

Chairman ST GERMAIN. Getting back to that point, everybody cites the Japanese trading companies marvel. Unless I am mistaken, we have a lot of firms in the United States that are troubled by the fact that it is very difficult to export to Japan. Is that not a fact?

Mr. ALEXANDER. That is true, and I think we ought to play hardball with the Japanese. I advocate it, I support it, I join ranks with anyone in doing so.

Chairman ST GERMAIN. I do not want to reincarnate the war with the Japanese, World War Two. By the same token, my point is that, as Mr. LaFalce stated at one of our hearings, this is an Export Trading Company Act, and let us keep our eyes on that. If, indeed, it is, at times, necessary to import as well, naturally, we will take that into consideration, but I think as I stated to Senator Heinz, that we want to give a lot of thought to allowing importing, to be certain that we achieve the stated goal of the legislation.

Now, you mentioned marble from China. I was down in Atlanta Sunday afternoon and early Monday morning, and saw the new Georgia Pacific building that they pride themselves on, and the fact that it was built with Georgia marble. Now, our colleagues from Georgia, if they heard you say that we will bring marble in from China, might get a little queasy, as would our colleagues from Maine, New Hampshire, and Massachusetts. So, that is why I say that we have to consider this very carefully.

Mr. ALEXANDER. Of course, Mr. Chairman, but we do not want to become a protectionist nation.

Chairman ST GERMAIN. Certainly not. I am just bringing out the pitfalls that we might face, so that we want to look at this very carefully.

Mr. ALEXANDER. May I respond just in brief to what the chairman has said? I believe our first obligation is to our own people, and as you know, I have a record of supporting that principle. At the same time, I think that if we are going to become an exporting nation, we must deal in the real world, and if we are dealing with a country that is employing certain tactics to their advantage in trading with us, we need to employ the same tactics in dealing with them until we can reach an agreement on reciprocity. If the Japanese are playing unfair with us, then I think we should play unfair with the Japanese. That is just as simple as I can say it.

Chairman ST GERMAIN. I would say to the gentleman that the Chair has had experience with the word "reciprocity" in the con-

text of the International Banking Act. At a meeting with the gnomes of Zurich, I recall stating to the head of that delegation meeting with our subcommittee, that as far as reciprocity is concerned, I said, well, which dictionary are you using, Funk and Wagnalls, Webster's, or LaRousse?

Mr. ALEXANDER. Our own.

Chairman ST GERMAIN. You know, there are so many definitions. That is why the word "principally," "exclusively," or "primarily," might not really fill the bill. I think we have to not only use the word, but define the word.

Mr. ALEXANDER. I agree.

Chairman ST GERMAIN. Mr. LaFalce.

Mr. LAFALCE. No questions, Mr. Chairman.

Chairman ST GERMAIN. Mr. McKinney.

Mr. MCKINNEY. I want to congratulate my friend from Arkansas on that incredible testimony.

Mr. Chairman, I am not going to tilt with you, but I want to get across a point that I think Bill has been mentioning, that is, that we have a tendency in this country to look at our opportunity trade markets as Japan and Germany and places like that. Just because they are beating us so badly, we put everything in reference with them; I totally agree with what the gentleman said about the Japanese. We ought to be playing much harder ball than we have, and I have so told almost every member of the Department of Commerce that I run across.

But the rest of the world has begun to realize that it is not those nations where our trade opportunities are. The greatest individual market in the world 20 years from now will be China, 1 billion people still about a century behind us, and also South Africa and South America.

I would suggest to the chairman, with whom I have worked very hard on this piece of legislation, that we think very definitively about what we are going to do to develop trade with what are going to be the new markets of the world who do not have hard currency. We are, in effect, going to have to come up with some kind of reciprocal program in order to sell to these markets. If in fact we do not, Mr. Chairman, I would suggest that the Japanese, and the Germans, and the French, and the English will take over those markets. And, in fact, the Japanese effort in China already is about five times more intensive than ours is.

This is always fascinating to someone of my age who was brought up with the Japanese and Chinese not speaking to each other, but those things disappear in the world of economics. China's drive to modernize and Japan's drive to sell is going to have to be combated by this country if we are ever going to get a foothold there. Somehow or other I think we are going to have to look at this wording just to make sure that it does not block us from all those Third World nations which I feel will be the new market.

Chairman ST GERMAIN. I would say to the gentleman that it is not a question of tilting. It is a question of getting on the record that which we will have to face as this legislation proceeds through the

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subcommittee, the full committee and on the floor. And I still think it is very important, and I recognize the fact, as I stated to Senator Heinz and the witnesses who have appeared before us and have made their case, I recognize the fact that there is going to have to be some bartering and some importing, and, by the same token, we have to craft the legislation in such a manner as to satisfy all parties.

Mr. McKINNEY. I absolutely agree with the chairman. I am essentially just building the record, too, to say that we need to be able to package for the Third World, and it is going to be difficult.

I was just interested in one other comment that you made, Bill, which I think is so true, and you put it very well. Constantly we hear the excuse that we cannot trade well because our labor costs are too high, or our products do not have the quality, or the dollar value is too high, or the other people keep us out. And you suggest very strongly what I have always felt: We do not trade well because we do not package, we do not put credit, product, delivery all into one contract. That can be understood, and the chairman has heard me ad nauseum, so I will not go too much further on that point.

But I am always fascinated by the fact that as competitive as they are within their own nation, when Chancellor Schmidt heads for the United States in his jet, he always has a couple of union leaders with him, and a couple of bankers with him, and a couple of businessmen with him; they determine how they are going to sell us the package and what their objectives are together rather than separately.

I think that is one of the things that this particular piece of legislation would try to achieve, and I thank you very much for coming, Bill.

Mr. ALEXANDER. Thank you very much.

Chairman ST GERMAIN. Mr. Wortley.

Mr. WORTLEY. I will pass, Mr. Chairman.

Chairman ST GERMAIN. I would like to express our deep appreciation to our colleague not only for his testimony this morning, which was excellent, just as that of Senator Heinz, but for the tremendous amount of work that he has put into this subject over a long period of time. We are grateful for your assistance and look forward to working with you on this legislation.

Mr. ALEXANDER. Thank you.

I hope the chairman will invite me to the signing.

Chairman ST GERMAIN. As the gentleman knows, the chairman has no control over that. I have not been to the White House yet since the new administration was inaugurated.

Thank you.

Now, we have the honor of having as our next witness Gov. Henry Wallich of the Federal Reserve Board appearing on behalf of the Federal Reserve Board. We thank you for your patience and look forward to your testimony, and you may proceed.

STATEMENT OF HON. HENRY C. WALLICH, MEMBER, BOARD OF GOVERNORS, FEDERAL RESERVE SYSTEM

Governor WALLICH. Thank you, Mr. Chairman.

I am pleased to testify on H.R. 6016, a bill that would facilitate the establishment and operation of export trading companies.

At the outset, I should like to restate the view of the Board that the United States needs a strong export sector. Export trading companies have been proposed as a means of contributing to the achievement of this goal by providing producers of goods and services, having additional business opportunities, with a way of reducing the risks associated with foreign business endeavors and offering them a wide variety of services. Export trading companies may be able to provide assistance to small and medium size U.S. businesses producing goods that can be marketed abroad.

It has been suggested that bank participation, particularly bank ownership participation, is essential to the effective operation of export trading companies. In the Board's view, the question whether export trading companies can be of significant help to U.S. exporters does not depend upon such a role for banks, as I have testified in the past. But in any event there are, I believe, more important problems of principle posed by bank equity ownership of entities directly engaged in commerce. Bank control of trading companies runs counter to our longstanding national policy, firmly embedded in legislation, of the separation of banking and commerce.

This policy has its basis in two principal concerns: (1) the safety and soundness of particular banks, and of the banking system in general, might be impaired if banks were closely affiliated with the ownership, management, and operation of a potentially high-risk nonbank business, and (2) a bank might allocate available credit on bases other than the creditworthiness of the borrower by preferring customers of the banks' affiliates or by denying credit to competitors of the banks' affiliates—possibilities that illustrate the basic issues of avoiding conflicts of interest and excessive concentration of resources.

The separation of banking and commerce has served this Nation well in promoting a strong banking system and economic competition. The Board is concerned that a breach of that traditional separation in the case of trading companies could adversely affect the safety and soundness of our banks as well as their role as impartial arbiters of credit, and could be an adverse precedent for breaches of this wall in other areas.

The Board is also concerned with the risks arising from bank involvement as managers and controlling investors in new enterprises at a time when bank capital generally is at an uncomfortably low level. The Board and the Comptroller of the Currency recently issued a joint policy statement setting forth their concerns over the secular declines in the capital ratios of the Nation's largest banking organizations, and indicating their intention to encourage through supervisory policies appropriate steps to improve the capital positions of the lower ranking members of this group. This situation suggests the need for caution in any opening of the doors to new enterprises with largely unknown risks.

While reiterating the view that banking organizations should not generally have controlling interests in export trading companies, I shall direct my remarks to the specific provisions of H.R. 6016 as they relate to the concerns of the Board.

The Board has previously supported the view that if there is to be bank affiliation with export trading companies the investments should be held only through bank holding companies. I am pleased that H.R. 6016 goes far toward meeting this objective by providing that interests in export trading companies could be held only through bank holding companies or Edge corporations.

There has been much discussion recently of the proper location and amount of supervision of nonbanking activities of bank holding companies. The Treasury, for example, has suggested that all nonbanking activities should be required to be conducted through separate subsidiaries of a bank holding company. This, in its view, would adequately insulate affiliated banks from such activities and so would make possible virtually automatic approval of the activity and allow regulatory oversight to remain minimal.

In the past, the Board has seen no strong need to require banking activities to be conducted in separate subsidiaries. Indeed, there are, in fact, advantages in the form of economic efficiency and easier regulatory oversight to allowing banking organizations the latitude to develop organizational structures designed to suit their unique needs. This approach has proven advantageous to banks and holding companies of all sizes and locations in providing a range of banking activities in structures that promote competition. We continue to support this approach as a general principle for banking activities, and particularly for expanded securities activities that are closely related to banking.

On the other hand, the Board believes the appropriate location for trading company activities would be in a subsidiary of a holding company, rather than in a direct subsidiary of the bank or its Edge corporation. In the case of export trading companies the Board believes this to be a desirable arrangement since export trading companies would represent the first instance of bank holding companies being permitted to own companies engaged in commerce as distinguished from banking. This arrangement would have the advantage of assuring uniform regulatory oversight over a new and potentially risky activity.

The Board would be further concerned if the traditional barrier between banking and commerce were breached not only by allowing banking organizations to engage in nonbank activities but also by allowing banking organizations to be partners in ventures with nonbank companies. We have generally opposed joint ventures involving bank holding companies and nonbank organizations, especially where the nonbank company was engaged in manufacturing or commercial enterprise. Accordingly, the Board believes that any export trading company legislation should restrict the ability of banking and nonbanking organizations to own jointly an export trading company.

It has been suggested that banks below a certain size, which might be unlikely to have a bank holding company parent, should be permitted to invest directly in export trading companies. But the reasons for restricting export trading company ownership to bank holding companies apply equally to banks that do not have a parent holding company. While the Board has in the past indicated that passive minority investments in export trading companies of a purely financial nature might be permitted for banks as well as

bank holding companies, all significant investments in trading companies, and certainly all controlling investments, should be permitted only through a bank holding company.

In addition to prohibiting direct bank ownership of export trading companies, there are other safeguards in H.R. 6016 that I believe are important to limiting the risks to which a banking organization would be exposed as a result of a controlling interest in an export trading company. The bill recognizes that the area in which the bank's expertise is likely to be of greatest value to the trading company is through financing, and places restrictions on the investments in and extensions of credit to the trading company by the bank holding company.

However, the proposal in H.R. 6016 to apply section 23A of the Federal Reserve Act to the bank holding company with respect to its extensions of credit to its affiliate trading company would be an unusual application of section 23A. That provision has previously been applied only to banks, and not to bank holding companies, with the purpose of safeguarding the resources of banks against misuse of those resources for the benefit of organizations under common control with the bank. I feel bound to point out that this provision in H.R. 6016 would virtually eliminate extensions of credit from the holding company to its controlled export trading company, because of the stringent collateral requirements of section 23A. On the other hand, the effect of this approach would be to permit without any limits extensions of credit by other nonbank affiliates, such as a holding company's finance company subsidiary, to the trading company.

A more effective approach would be to limit extensions of credit by a banking organization and its affiliates to any single export trading company to an amount that, together with its investment in that company, would not exceed 10 percent of the banking organization's capital, while total equity investment by a banking organization in one or more trading companies could not exceed in the aggregate 5 percent of the banking organization's capital. These loans could be made by the bank, its Edge Corporations, or other holding company affiliates. The bank's lending would, of course, also be limited by the amount and collateral requirements of section 23A. We believe that this method of limiting the exposure of the banking organization to this new activity would be both workable and prudent.

In addition, I believe there are other reasonable steps that can be taken to limit the banking organization's financial exposure. H.R. 6016 could further be strengthened by a provision similar to that in S. 734 prohibiting a bank holding company and its affiliates from making extensions of credit to the customers of its affiliated export trading company on terms more favorable than those afforded similar borrowers in similar circumstances, and requiring that such extensions of credit should involve no more than the normal risk of repayment nor present other unfavorable features.

The Board also believes that a bank holding company-controlled export trading company should be prohibited from taking title to goods or commodities except in very limited circumstances. The export trading company should be allowed to take title to goods or commodities only on the basis of firm orders from customers or

where necessary to effectuate a sale. Moreover, the bill should clearly authorize the Board to determine that if a bank holding company-controlled export trading company holds manufactured goods or commodities in inventory in order to speculate in price movements in these goods such activity would constitute an unsafe or unsound practice.

There are two additional safeguards in H.R. 6016—concerning the use of the name of the bank or bank holding company as the name of the export trading company and the participation of these companies in manufacturing—that are of particular importance to the Board in considering this legislation. We have in the past supported the safeguard in H.R. 6016 that prohibits an export trading company from having a name similar in any respect to that of the bank or bank holding company with which it is affiliated through stock ownership. As in the case of REIT's in the mid-1970's, public identification of a bank with another enterprise could involve the bank in significant losses, even where there is no bank ownership interest.

We believe that the use of the name of the bank or bank holding company to promote the activities of an export trading company, which are not in our view closely related to the business of banking, is inappropriate for a number of reasons. First, it incorrectly implies that the full faith and credit of the affiliated bank stand behind the export trading company. Second, it could have an adverse effect on the reputation and public confidence in the bank if the export trading company were to suffer a financial setback. Third, there would be a greater likelihood that the assets of the banking organization would be depleted in order to bail out a troubled export trading company with a similar name.

We have made the same recommendation for bank participation in securities functions such as stock and bond mutual funds. This recommendation has even greater force with respect to bank holding company activity that breaches the line between commerce and banking. Accordingly, the Board supports the proposal that an export trading company not bear a name similar to that of its affiliated bank or bank holding company, even where the bank holding company has a controlling ownership interest in the export trading company.

H.R. 6016 also provides that a bank holding company-owned export trading company may not engage in manufacturing. The Board's concern over bank holding company control of export trading companies is based on its continuing belief that the traditional separation of banking and commerce is a wise policy; accordingly, we favor legislation that limits the extent to which commercial activities may be engaged in through the export trading company, without significantly jeopardizing the viability of that company. I do not believe that a prohibition on manufacturing would in any way compromise the ability of export trading companies to play a constructive role in facilitating exports. For example, if modifications to products are required it would seem both preferable and feasible to have them performed by the manufacturer, or by an independent manufacturer, rather than by the export trading company. This provision would further the basic principle of the separation of the business of banking from the conduct of commerce.

Finally, H.R. 6016 provides that the Board approve each investment by a bank holding company in an export trading company. In the Board's view it is appropriate to allow some level of noncontrolling investments—in excess of 5 percent but less than 20 percent—that may be made in export trading companies without applying the standards with respect to controlling interests in export trading companies that we recommend below, provided such investments meet the criteria in section 4 of the Bank Holding Company Act. It would be anticipated that applications of this type could be abbreviated and processed under expedited procedures.

With regard to the standards on controlling interests, H.R. 6016, as currently drafted, does not, in our view provide sufficient guidance as to when the Board should disapprove an application to make a controlling investment in an export trading company. The bill states that the Board may not grant approval of any application to acquire an interest in an export trading company unless the Board has taken into consideration the financial and managerial resources, competitive situation, and future prospects of the bank holding company and the export trading company involved. The legislation also gives the Board the authority to impose restrictions, by regulation or otherwise, as the Board deems necessary to prevent conflicts of interest, unsafe or unsound banking practices, undue concentration of resources, and decreased or unfair competition.

In considering applications involving control, it might be appropriate to require that the Board find a reasonable likelihood that the bank investment would bring about an increase in the level of exports or in the penetration of foreign markets that would not otherwise occur. The Board should be authorized to deny an application unless the activities of the export trading company would be limited to international trade in specific goods and services and unless the bank investment could contribute substantially both to the establishment of the trading company and to exporting of facilitating the exportation of goods and services.

Also, the bill should state that if the Board finds there are any adverse financial, managerial, competitive, or other banking factors associated with the particular investment it has the discretion to approve the application only if it determines that the export benefits clearly outweigh any such adverse effects. Such standards would place a heavier burden on bank holding company applicants to demonstrate the benefits of their proposed investment. The balancing test would be similar to the test that the Board administers in acting upon applications pursuant to section 4(c)(8) of the Bank Holding Company Act. The Board and its staff would, of course, be willing to work with the subcommittee in drafting appropriate language to this effect.

In addition to its provisions regarding export trading companies, H.R. 6016 would amend the Federal Reserve Act to increase the aggregate limitation on the amount of eligible bankers' acceptances that may be issued by a member bank from 50 percent of capital and surplus—100 percent with the Board's permission—to 150 percent of capital and surplus—200 percent with Board's permission. The limitations would be applied also to nonmember commercial banks and to U.S. branches and agencies of foreign banks.

The Board believes that it is both appropriate to expand the current aggregate limitation on the issuance of eligible bankers' acceptances and to apply those limits to the other entities with which member banks compete in the acceptance market. In applying the limitation on eligible bankers' acceptances to U.S. branches and agencies of foreign banks, the Board believes that the appropriate measure of capital is the worldwide capital of the parent foreign bank. Use of such a measure in this country would be consistent with the efforts being made to promote the use of worldwide capital, rather than local-based capital, for purposes of prudential limitations imposed in other countries.

The Board believes, however, that the provision as presently drafted presents potential problems with regard to participations. Under the existing language, a bank could expand the amount of its bankers' acceptances outstanding virtually without limit by issuing participations to other banks. Such a practice would undermine the effectiveness of the limits established by the bill and could adversely affect monetary policy to the extent that bankers' acceptances are substituted for liabilities that would otherwise be subject to reserve requirements. We believe that this problem could be corrected through a specific provision that authorizes the Board to establish terms and conditions under which participations in bankers' acceptances may be issued. In this connection, the Board previously submitted a draft bill that would not give rise to these problems, and recommends that this language be adopted in place of the present provision.

In conclusion, I should restate the Board's position that the U.S. economy would best be served by having banking organizations assist trading companies as bankers and limited investors rather than as owner-operators of these firms. However, in the event that the legislation is enacted that would enable banking organizations to have controlling ownership investment in export trading companies, the Board believes that the restriction of the ownership interests in export trading companies to bank holding companies, together with the other limitations on the holding company's relationship to its controlled trading company and on the activities of the trading company itself that I have discussed above, are important and necessary safeguards.

Thank you, Mr. Chairman.

Chairman ST GERMAIN. Thank you, Governor Wallich. We have one member who has to testify at another committee, and therefore I am going to recognize him immediately so he can pursue a few points that he is particularly interested in. Mr. LaFalce.

Mr. LAFALCE. Thank you very much, Mr. Chairman. First of all, I appreciate your courtesy in allowing me to ask questions first; unfortunately, it is my bill that the Rules Committee is considering at 11 o'clock, so I have to be there.

Governor Wallich, I have one principal concern with your testimony, and that is the position of the Federal Reserve Board that the name of the bank or bank holding company not be utilized to promote the activities of the export trading company, and thus not be used in the name of the export trading company. To me, that virtually defeats the purpose of the bill, because one of the advantages of the bill, in order to promote exports, is to utilize the tre-

mendous network that the banks and bank holding companies do have in the international markets, and also to capitalize on the good will that has been created over the years. It seems to me that the position of the Federal Reserve Board is so cautious to the point of being scrupulously cautious, overcautious, to avoid any potential difficulties, that it might undercut the very fundamental purpose of the bill itself.

Would you care to comment?

Governor WALLICH. The concern, I think you understand, is that if an export trading company goes under the familiar name of a bank, that it would be identified with that bank, and that if anything happens to the trading company to weaken its position, two things will happen: First, the public will think this is the bank, and the adverse effects are directly impinging on the bank. Second, the bank——

Mr. LAFALCE. Well, that is an option that the bank would have to consider, would it not? The bank would have to say, will we be willing to suffer the adverse public opinion that our bank might have to experience if the export trading company goes under, or has difficulties, but that is similar to the decisions that a businessman has to make every day, correct?

Governor WALLICH. Yes.

Mr. LAFALCE. What is your next objection?

Governor WALLICH. Well, my concern would be that it would be very difficult for the bank under those conditions to let the trading company go. There is the legal fact of limited liability, but where there is a subsidiary with a similar name, that is not likely to be very effective either in the minds of the public or in the minds of the bank management.

Mr. LAFALCE. That is where the legal restrictions in the regulatory supervision would enter in to prevent the bank or the bank holding company from being able to do anything out of the ordinary.

Governor WALLICH. Well, it would seem to me, Congressman LaFalce, that the bank organization is there, and can do whatever it can do.

Mr. LAFALCE. Whatever it can do. It can do whatever it can do, to be sure, but what it can do is specifically prescribed by law, is it not?

Governor WALLICH. That is right, and the name should not be an additional, and, to my mind, somewhat misleading inducement if the capabilities are there and the expertise is there.

Mr. LAFALCE. Now we are getting to the nub of the matter. It is not so much the first two points that you raised in your colloquy with me. You are really fearful that there will be an advantage to the banks in using their name because of the good will they have created over the year or over the years, and that you do not want any transferrence of that goodwill to an export trading company.

Governor WALLICH. I am concerned——

Mr. LAFALCE. You are concerned about the interest of the small businessman in being led astray by the good will that has been created over the years by the banks and bank holding companies.

Governor WALLICH. I am concerned with the risk, yes.

Mr. LAFALCE. Thank you very much, Governor.

Chairman ST GERMAIN. Before the gentleman leaves, could he wait one more second? I think maybe we should consider another point, and as I just told the gentleman, I have open ears on this one. If, on the one hand, we allow the "Superman Bank" to use its name, then you get the regional bank that is unknown, but as Senator Heinz says, they want to go in and compete, and nobody knows their name, because they are the unknown bank. Maybe there is a little bit of unfairness there. I do not know.

Mr. LAFALCE. If I may quote a great President, John F. Kennedy said, "Life is a little bit unfair," and I think it is unfair that individuals might consider cars on the basis of somebody's name. I think it is unfair that individuals might consider TV appliances. I think it is unfair they might consider accounting services or legal services, et cetera, when, if you could analyze the objective merit of lawyers unrelated to the prestige of their firm, if you could evaluate the objective merit of accountants unrelated to the stature that their firm has accumulated over the years, you might find that the lesser known firm is far superior to the well known firm, but it is a fact of life that we have to deal with, and I do not think that we can attempt to eradicate the facts of life as we try to boost our exports. I think we have to use the facts of life to our advantage.

Chairman ST GERMAIN. But does that not, John, point out the fact that those smaller banks are going to have a real tough time in this area as a practical matter?

Mr. LAFALCE. Well, you know, I am really not concerned about whether it is smaller banks who benefit or the bigger banks who benefit. I really do not care about the banks benefiting at all. I care about boosting exports. I care about enhancing the smaller businesses' access to the international market, and if a small bank can help a small business, or if a medium sized or a regional or a big bank, I really do not care all that much. I do not view this as a banker's bill. I view this as a small businessman's bill, and whoever can help them get that access to the international market, so be it.

Chairman ST GERMAIN. John, this is good for our record. That is why I wanted to have this little repartee with you.

Mr. LAFALCE. I thank you very much, Mr. Chairman.

Chairman ST GERMAIN. And good luck in the Rules Committee.

Mr. Wylie.

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

Welcome, Governor Wallich. We are glad to see you here this morning. You have offered several suggestions in your testimony, and may I say that you have indicated you would work with staff, which it seems to me is encouraging. On page 8 of your testimony, in the second paragraph, you say, "Finally, H.R. 6016 provides that the Board approve each investment by a bank holding company in an export trading company," and then you suggest there that the Fed ought not to have to approve each investment, and have suggested a threshold level of 5 percent but not less than 20 percent. How did you happen to arrive at those figures, Governor?

Governor WALLICH. Well, these are rather standard numbers. Five percent is a number that comes up in the Bank Holding Company Act. Up to 5 percent is regarded as a routine financial investment, not raising the question of control. Twenty percent is the

limit at which equity accounting becomes possible. That is to say, instead of the bank or bank holding company owning shares in the trading company on which it receives dividends which it takes into its income, it can consolidate the affairs of the trading company with its own, and take the whole earnings, its pro rata share, into its income. That creates a much stronger identification of a bank and a bank holding company and a trading company. They become directly concerned about what earnings are each year, not just the dividends, and that therefore is a useful cutoff point.

I would not say that it is the only conceivable cutoff point, but it happens to be an important number in the accounting profession.

Mr. WYLIE. It seems to me that you have made a valid observation. The bankers' acceptances provision of this bill gives the Federal Reserve the authority to define capital and surplus for foreign banks operating in the United States, and it is a narrow definition using only U.S. assets. Would that not in effect put U.S. banks out of the acceptance offering business? On the other hand, a worldwide test would result in essentially no limit. On page 10 of your testimony, you state that the Fed will rule in favor of the worldwide market. Would you explain your justification for the ruling you suggest the Fed would make? Would that give an unfair advantage to foreign banks? That is really what I am concerned about.

Governor WALLICH. Obviously, it is very difficult to measure fairness here, but there are two considerations that suggest that this is the best way of proceeding. One is that bank regulators in the United States and elsewhere are making considerable efforts to get worldwide consolidated capital recognized as the standard for regulatory purposes. Under such a standard when a bank in country X that has a subsidiary in country Y is making a loan to a given borrower, and the subsidiary also is making a loan to that borrower, the bank must consolidate those two loans and relate them to the consolidated capital. A proper evaluation of the risk exposure emerges that would be concealed if this consolidation did not take place.

So, it seems logical that one would want to apply the same principle here. Furthermore, the whole International Banking Act, as you know, involves the principle of national treatment, and one could view this as a case of national treatment here.

Mr. WYLIE. As you do I favor the concept of the legislation, and I hope we can come up with a consensus. Thank you very much, Mr. Chairman.

Chairman ST GERMAIN. Thank you, Mr. Wylie.

Governor Wallich, the limitations in section 23A of the Federal Reserve Act serve to discourage banks from extending credit to their nonbank affiliates. H.R. 6016 has been drafted to include this safeguard, and to extend it to discourage a bank holding company from extending credit to an ETC in which it has invested. Is it the position of the Federal Reserve Board that the provisions of 23A should also apply to any extensions of credit to an ETC from any of its nonbank affiliates? I want to get that clarified.

Governor WALLICH. Well, as you observe, we have a somewhat different proposal than the provision of H.R. 6016, because this use of a section 23A for a bank holding company is a somewhat unusual one, and if it were applied to the bank holding company, I think

the chances are that it would make credit to the export trading company quite difficult.

Insofar as any credit is given by the bank in the organization, section 23A would apply automatically. Nothing would change as a result of our suggestions. I am not sure that I have been responsive to your question. Section 23A, if applied to the bank holding company, would create a difficulty for the purpose of this bill, since the collateral requirements under that section are much more restrictive than was intended. On the other hand, to the extent that credit is given by a bank, section 23A applies in any event.

There might be unlimited extensions of credit from any affiliate of the bank holding company, so that a loophole would be opened. That, again, would not be the case if the Board's proposal were accepted.

Chairman ST GERMAIN. In other words, are you advocating that we isolate the bank, the ETC, from any bank holding company loans, either directly from the holding company itself or from affiliates?

Governor WALLICH. The banks should be subject to section 23A.

Chairman ST GERMAIN. The bank holding company?

Governor WALLICH. No, I am saying the bank.

Chairman ST GERMAIN. The bank itself.

Governor WALLICH. If the bank is subject to section 23A, that means that the limitation on loans to the export trading company of 10 percent of the bank's capital, subject to collateral requirements, depending upon——

Chairman ST GERMAIN. But how about the affiliates? The bank holding company has other subsidiary affiliates. Do you want that limited as well?

Governor WALLICH. I would like to see that limited.

Chairman ST GERMAIN. You do not feel that in the way the legislation is written, that it accomplishes this?

Governor WALLICH. My impression is that it does not. It apparently leaves it open for an affiliate of the bank holding company, although not the holding company itself, to make loans to the trading company, and there is no ceiling on those loans. Now, one conceivable way would be to apply section 23A to these affiliates. Once again, this would be an unusual way of proceeding because section 23A has always applied to banks, not to bank holding companies or to nonbank affiliates. I would not say that it could not be done, but such a procedure would raise a number of complications that perhaps it would be better to avoid.

Chairman ST GERMAIN. In your testimony, you mentioned concern about banks making preferential loans to the clients of its trading company. Now, I have been given to understand that in staff discussions our staffs decided, or came to the conclusion, that the language now in H.R. 6016 was looked upon as fully adequate to enable the Federal Reserve to prohibit by regulation preferential loans by an affiliate bank to an ETC's clients.

Governor WALLICH. I will have to consult with my staff.

Chairman ST GERMAIN. I will read the language to you: "and has imposed such restriction by regulation or otherwise as the Board deems"—this is at page 2, lines 20 to 25—necessary to prevent con-

flict of interest, unsafe or unsound banking practice, undue concentration of resources and decreased or unfair competition."

We felt that we had given you the authority by regulation to take care of that particular concern that you have.

Governor WALLICH. Mr. Chairman, the complexity of the matter defeats me at the moment. It was my impression that we had not completely resolved this. I am told that in the Senate bill this is more fully spelled out, and it would be helpful if we could get it spelled out the same way here.

Chairman ST GERMAIN. Well, suppose we have staff work a little further on that and then perhaps you can give us a letter supplementing your testimony this morning on that point.

Governor WALLICH. Yes, we will.

Chairman ST GERMAIN. Governor Wallich, on page 9, the second paragraph, you said, "in considering applications involving control, it might be appropriate to require that the Board find a reasonable likelihood that the bank investment would bring about an increase in the level of exports or in the penetration of foreign markets that would otherwise occur."

Now, you were here when Senator Heinz testified, and I refer to his testimony wherein he stated that the Senate committee, and himself had been contacted by various regional banks, who to date have had no international involvement but would like to get into the act in a restricted area so that they could help some of their clients in their export activities. That would indicate that they have no track record.

Now, looking at your statement at page 9 that I have just read, wouldn't it be rather difficult for the Fed to approve the application if you were going to establish the criteria as stated at page 9 in those four lines that I just read to you because they have no track record?

Governor WALLICH. Well, a track record certainly would be helpful in establishing what the prospects were. I would be surprised to hear that regional banks of any size had no international business, but that may be the case in some instances. They would then have to present a plan of how they intended to proceed.

This clearly would have to be handled in reasonable terms. It would not be a question of saying that we are going to do exactly thus and so at exactly such and such a time. But the record would have to convey evidence of competence in the field and an ability to handle problems that are likely to come up.

Chairman ST GERMAIN. Well, there seems to be, on the part of many, a very strong desire to allow participation, not only by the big money center banks, but by other institutions as well as by consortiums of small banks. Now, if that is the end product, if that indeed, is what is contained in the legislation when it is finally adopted by the House and Senate, you wouldn't want the Federal Reserve Board's hands tied by a restriction that would make it veritably impossible for these new institutions or consortiums entering into the international market, would you?

Governor WALLICH. Well, Mr. Chairman, as a regulator my first concern would have to be the question whether they are capable of conducting such a business. A group of 10 banks, none of which has any previous experience in international trade, knows no more

than any one of them. I think that it would be unwise for them to jump into a high-risk business. I do not know how they might proceed, but one can get into exports gradually, one can affiliate or tie up with a bank that has experience.

I would be concerned about banks that lack experience—whether they operate individually or in consort—getting into export trading companies with their often high leverage and often unpredictable risks.

Chairman ST GERMAIN. By the same token, Governor, it would be rather ridiculous to, on the one hand, say that yes, these institutions could qualify as far as the statute is concerned, but these institutions will not qualify by virtue of regulations that we know are going to be implemented.

So I think, again, this needs a little further discussion to see if we can arrive at a mutual understanding. Remember, people have to start sometime, somewhere, and to say just because you have never done it before, you cannot do it is not fair. You know it could well be that particular consortium would have available to it some very fine experts that they hire and bring in from the outside. Merely the fact that they have not been involved before, I don't think, should be an absolute prohibition.

Governor WALLICH. I could postulate that a bank might participate in an existing export trading company that is already well-established and competently run. There would be ways of getting into it.

Chairman ST GERMAIN. Well, Governor, obviously we have a lot of talking to do as the days go by, and hopefully prior to markup.

I have some additional questions that I will submit in writing if you would be good enough to, along with your staff, provide us with the answers to them.

[A letter from Chairman St Germain requesting Governor Wallich to answer questions on H.R. 6016 and to comment on the testimony of Deputy Secretary R. T. McNamar of the Treasury Department, and his response, follow:]

FERNAND J. ST GERMAIN, R.I., CHAIRMAN
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WASHINGTON, D.C. 20515

May 28, 1982

Honorable Henry Wallich
Board of Governors
Federal Reserve System
Washington, D. C. 20551

Dear Governor Wallich:

On behalf of the Subcommittee on Financial Institutions, I want to thank you for your testimony regarding H.R. 6016, the Bank Export Services Act. Your testimony was thorough and informative, however, a number of issues require further clarification. To assist the Subcommittee in its consideration of H.R. 6016, please provide responses to the questions set forth below:

1. The potential risks associated with preferential lending by a bank to the customers of its affiliated export trading company have been noted by several witnesses, including the Federal Reserve Board. What safeguards, in addition to those already in H.R. 6016, do you feel should be incorporated into H.R. 6016? Please provide specific amendatory language.

2. In your testimony you note that H.R. 6016 needs to be more explicit in providing guidance as to when the Board should disapprove an application to make a controlling investment in an export trading company. Kindly provide the Subcommittee with specific amendatory language which you believe would provide the guidance the Board would need to carry out its responsibilities.

We would also appreciate your comments on the testimony given by Deputy Secretary McNamar, a copy of which is enclosed. The Subcommittee is particularly interested in the Board's comments to Mr. McNamar's assertion on page 7, where he stated, "We are convinced that the separation provided by this structure and the existing Federal Reserve Board oversight of the activities of a bank holding company afford sufficient protection to the assets of affiliated banks to obviate the need for a special set of preclearance regulations."

It would be most appreciated if the Subcommittee could receive your responses to these questions before June 4, 1982.

Sincerely,

Fernand J. St Germain
Chairman

Encl.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D.C. 20551

June 9, 1982

HENRY C. WALLICH
MEMBER OF THE BOARD

The Honorable Fernand J. St Germain
Chairman
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Chairman St Germain:

This is in response to your letter of May 28, 1982, regarding my recent testimony on H.R. 6016, the Bank Export Services Act. You requested that I respond to several specific questions relating to my testimony on H.R. 6016 as well as the testimony of R. T. McNamar, Deputy Secretary of the Treasury. The questions you have posed are stated below along with my answer to each.

1. The potential risks associated with preferential lending by a bank to the customers of its affiliated export trading company have been noted by several witnesses, including the Federal Reserve Board. What safeguards, in addition to those already in H.R. 6016, do you feel should be incorporated into H.R. 6016? Please provide specific amendatory language.

H.R. 6016 authorizes the Board, in approving a bank holding company investment in an export trading company "to impose such restrictions, by regulation or otherwise, as the Board deems necessary to prevent conflicts of interest, unsafe or unsound banking practices, undue concentration of resources, and decreased or unfair competition." As you properly brought out in the course of the May 19 hearings, this statutory language would appear to provide the authority needed for the Board to issue appropriate regulations restricting preferential bank loans to an affiliated export trading company and its customers. We believe, however, that a statutory provision is desirable as an express legislative recognition of the particular risks of conflict of interest and unsafe and unsound banking practices that can be associated with bank loans to an affiliated export trading company or its customers.

Accordingly, I would recommend inserting the following language, which is similar to that contained in section 105(c)(4) of S. 734, in section 2(a)(3) of H.R. 6016:

> No bank holding company holding voting stock or other evidences of ownership of any export trading company may extend credit or cause any affiliate to extend credit to any export trading company or to customers of such company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

A similar sentence should be inserted in section 2(b) of H.R. 6016 if the provision in the bill permitting an Edge Corporation to invest in an export trading company is retained.

While proposing this language as an important safeguard, the Board nevertheless recognizes that a banking organization cannot be a totally disinterested arbiter of credit when making decisions regarding loans to an affiliated company or its customers.

2. In your testimony you note that H.R. 6016 needs to be more explicit in providing guidance as to when the Board should disapprove an application to make a controlling investment in an export trading company. Kindly provide the Subcommittee with specific amendatory language which you believe would provide the guidance the Board would need to carry out its responsibilities.

It is recommended that the following changes be made in section 2(a)(3) of H.R. 6016 at page 2, lines 9-25:

"(14) shares of any company which is an export trading company whose acquisition (including each acquisition of shares) or formation by a bank holding company has been approved by the Board, except that such investments, whether direct or indirect, in such shares shall not exceed 5 per centum of the bank holding company's consolidated capital and surplus. No approval ~~may~~ shall be granted by the Board under this paragraph unless the Board has taken into consideration the financial and managerial resources, competitive situation, and future prospects of the bank holding company and the export trading company involved and ~~has-imposed-such-restrictions,-by-regulation-or-otherwise,-as-the Board-deems-necessary-to-prevent~~ any possible adverse effects such as conflicts of interest, unsafe or unsound banking practices, undue concentration of resources, risk of harm to the financial safety, soundness and stability of the bank holding company or its subsidiaries, and decreased or unfair competition. The Board shall not approve any application by a bank holding company that would result in such company owning or controlling 20 per centum or more of the voting shares of an export trading company unless the applicant bank holding company demonstrates to the satisfaction of the Board that (i) the investment would contribute

substantially to the establishment or continued operation of the export trading company and (ii) there is a reasonable likelihood that the bank holding company investment would bring about an increase in the level of exports of goods and services or in the penetration of foreign markets that otherwise would not occur. . . ."

Similar language should be added to section 2(b) of H.R. 6016 if the provision in the bill permitting an Edge Corporation to invest in an export trading company is retained.

The foregoing changes outline the considerations relevant to a Board determination to approve or deny any application by a bank holding company to acquire 5 per cent or more of the voting shares of an export trading company. The proposed changes are patterned on the language contained in sections 3 and 4 of the Bank Holding Company Act, for which a recognized body of law has developed interpreting these technical terms. The proposed language regarding potential adverse effects also includes specific reference to the risk of harm to the financial safety, soundness and stability of a bank holding company or its subsidiaries. While this factor normally is taken into account as part of the Board's consideration of the factors listed in Sections 3 and 4 of the Bank Holding Company Act, this specific reference is considered desirable given the nature of the investments.

The proposed changes also delete reference to the Board's authority to issue restrictions and regulations pertaining to the proposed investments, since that authority implicitly is a part of the Board's authority to approve or deny applications. Moreover, to include such authorizing language suggests that, even where the Board finds that significant adverse effects might flow from the investment, the Board's only authorized action might be to condition, but not deny, approval of the application.

The proposed language also contains an additional set of criteria for approval of proposed acquisitions cf 20 per cent or more of the voting shares of an export trading company. The Board believes that these justifications of the investment by a bank holding company in an export trading company are warranted for investments reflecting a relatively high degree of ownership and control.

3. Please comment upon the testimony of Deputy Secretary McNamar, and particularly upon Mr. McNamar's assertion on page seven of his testimony where he

stated, "We are convinced that the separation provided by this structure and the existing Federal Reserve Board oversight of the activities of a bank holding company afford sufficient protection to the assets of affiliated banks to obviate the need for a special set of preclearance regulations."

With respect to Deputy Secretary McNamar's comments, while we also favor use of bank holding companies as the preferable structure for authorized bank investments in export trading companies, the Board does not view bank holding company ownership of the export trading company affiliate as providing sufficient protection in itself for the bank affiliate. It is true that placing these activities in a separate corporation triggers statutory barriers that limit transactions between a bank and its affiliate, but such restraints have not been, and are not likely to be, fully effective in convincing either markets or the public that a bank is immune to the problems of its affiliate. The Board has seen on several occasions situations in which difficulties in nonbank affiliates were quickly reflected in the cost and availability of funds to affiliated banks.

Accordingly, we believe that investments by bank holding companies in export trading companies should be governed by a system of regulatory oversight no less precautionary than that governing bank holding company investments in other nonbanking activities. This is particularly true where these investments constitute a significant departure from the traditional separation of banking and commerce. Risks to banking organizations from investments in trading companies appear potentially much greater than risks associated with investments in nonbanking activities that are closely related to banking and, accordingly, permissible under the Bank Holding Company Act. In particular, trading companies are likely to be highly leveraged; moreover, as commercial concerns they would operate outside the traditional financial areas where banks have developed expertise. Therefore, to assure consistency with the policies of the Bank Holding Company Act and to maintain the safety and soundness of the banking system, a prior approval requirement for bank holding company investments in export trading companies would be highly desirable.

Further, it may be argued that prior approval of investments, in addition to the usual reporting and examination oversight of regulated activities, would not discourage bank holding company investments in export trading companies. The prior approval process would establish a set of acceptable "ground rules" under which the bank holding company investors would be more certain of not receiving subsequent unanticipated regulatory

criticism of their on-going business activities. Generally, correction of a problem situation creates more difficulties for the regulators, regulated banks, and the financial system than administering a reasonable precautionary system of regulation. For all of these reasons, we strongly favor prior approval requirements along the lines developed in response to question number two above.

Thank you for this additional opportunity to comment on H.R. 6016. I would be pleased to provide such further assistance in the Committee's consideration of the bill as you might request.

Sincerely yours,

Henry C. Wallich

Henry C. Wallich

Chairman ST GERMAIN. Mr. McKinney.

Mr. MCKINNEY. Thank you, Mr. Chairman.

Governor, I appreciate your testimony. It is very lengthy and a rather thorough document. I think I may follow the route or probably putting some questions to you on these specific points in writing and would appreciate your responding to them.

Thank you very much.

Chairman ST GERMAIN. Mr. Lowery.

Mr. LOWERY. No questions, thank you, Mr. Chairman.

Chairman ST GERMAIN. Governor Wallich, thank you very kindly again for your patience and for your early arising this morning in order to assist the committee.

Governor WALLICH. Thank you, Mr. Chairman.

Chairman ST GERMAIN. At this time we are honored by another former colleague who was misguided and went over to the Senate. As a matter of fact, this colleague was also a very distinguished member of this committee, and he is also in the forefront on the Senate side as a proponent of the legislation to increase exports, and we are very happy to have him with us this morning to give us the benefit of his expertise.

So we will put your entire statement in the record, Senator Tsongas, and we are pleased to have you.

STATEMENT OF HON. PAUL TSONGAS, U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator TSONGAS. Mr. Chairman, this is the first time that I have been introduced as misguided.

Chairman ST GERMAIN. Misguided in that you left the House for the Senate.

Senator TSONGAS. It is not the first time people thought that, but the first time it has actually been said.

Chairman ST GERMAIN. We miss you.

Senator TSONGAS. Mr. Chairman, I have sat up here long enough hearing testimony that I will not read it at length because I sus-

pect I may lose your attention, as I lost mine many times in the past, so let me just make a couple of remarks.

First of all, those of us who have been involved with this issue in the Senate—this is the third time around, as you know, and it reminds me of Gary Studds, who, as you know, was involved with the 200-mile limit time after time after time. I said to Gary at one point, what are you going to do if this thing ever passes, what kind of issues are you going to get involved in? I kind of feel the same way with the export trading companies, that if this thing ever becomes law, there is going to be a great vacuum in my schedule.

An item came to my notice the other day in part of an effort we are involved in trying to understand how the high technology industry in New England can deal with the Japanese threat, and we discovered the third largest exporter of the United States is Mitsui, which gives you some idea not only of what they are doing in their own country but what they are doing in the United States as well.

As you know, Chase has estimated the U.S. exports would increase by $100 billion over the next 8 years, which is a 10-percent increase in our exports, and in New England alone, the New England Institute estimates that you are looking at $500 million in export sales and 15,000 jobs. The committee has heard testimony from various individuals from New England, and I think that pretty much outlines where our region of the country is coming from.

The point I would make, Mr. Chairman, is simply this. H.R. 6016 is doing rather well and has cosponsorship across the board in this committee. We have a different version, and obviously it will go to conference and we will work out the differences, but I would urge the committee to the extent possible to understand that the function of this legislation is to increase exports and to provide mechanisms that are workable, and I think that if one is to err, one should err on the side of providing powers, not on the side of providing restrictions.

I think in my State of Massachusetts we are in the fight for our economic life with the Japanese. I grew up in a city that went the way of all flesh with shoes and textiles, and I, for one, don't want to go through that again. Now in my State you are looking not at just isolated old cities not unlike those that you represent in Bridgeport, et cetera, but I think if high tech in New England should suffer the same fate as shoes and textiles, there is no recovery, there is no next cycle.

I think the export trading company legislation is an important tool in preventing that eventuality. There is a lot more that has to be done, but the export trading company legislation clearly is one step in the right direction.

I would commend the committee for the initiative in H.R. 6016. I would hope that the jurisdictional matters between the committees can be worked out and that this can be resolved as quickly as possible. I think the Japanese would love us to spend another 3 years arguing over this issue and further encroach on our export domain and our high technology base.

I think it is about time that we showed we are serious about dealing with export policy, and I think H.R. 6016 is a step in the

right direction. I commend the committee and the chairman for the initiative in seeing this bill come this far.

I would ask that the statement be included in the record, and I would be glad to answer any questions that you would have.

[The prepared statement of Senator Tsongas follows:]

Testimony of Senator Paul Tsongas May 19, 1982

Before the Financial Institutions Supervision, Regulation, and Insurance Subcommittee of the House Committee on Banking, Finance, and Urban Affairs on H.R. 6016, the Bank Export Services Act

Mr. Chairman and Members of the Committee:

It is a special pleasure to testify before you today on the merits of H.R. 6016, the Bank Export Services Act, introduced by Chairman St. Germain and cosponsored by thirteen members of this subcommittee. We have been barraged in recent months by dismal economic news--by weak projections for our own economy, and by mounting trade challenges from competition abroad. Foreign observers have rightly questioned whether we have the wherewithal to cope with these difficult economic realities.

The leadership Chairman St. Germain and the members of this committee have provided in moving this bill forward, evidence that as a nation we are willing and able to meet the challenges of international trade competition head on. There is nothing Japanese business would like better than to watch endless U.S. debate on the merits of export trading companies. While we debate, their giant trading companies like Mitsubishi and Mitsui will continue to sell billions of dollars worth of goods, expanding their gigantic world-wide trading network--at our expense.

In authoring H.R. 6016, this committee and its chairman have demonstrated that regaining our competitive edge in international markets is too important an issue to become bogged down in ideological discussion or partisan politics.

Export trading companies can be a tremendous boon to U.S. competitiveness. Chase Econometrics estimates that U.S. exports could increase by $100 billion over the next eight years should the bill before this committee become law. In other words, we may increase our export sales by almost 10% by giving our-

selves the same authority to engage in export trading practices already enjoyed by our competitors. The Export Trading Company Task Force of the New England Institute has estimated that in New England alone, this legislation may generate $500 million in export sales, and create as many as 15,000 jobs.

Thanks to the Chairman and the members of this committee, this measure enjoys truly remarkable broad-based support. Bipartisanship has been the hallmark of export trading company legislation. This committee has continued that tradition. H.R. 6016 has the support of Democrats and Republicans alike. The testimony received by this committee on April 22nd demonstrates the widespread support this measure enjoys all over New England. Further, cosponsors of H.R. 6016 come from 19 states, demonstrating the nationwide interest in sharing the benefits of export trading companies.

As one of the original cosponsors of the Senate legislation, I must admit a preference for some of the features of the Senate approach. I sincerely believe, though, that H.R. 6016 offers a constructive approach for the establishment of trading companies. As the committee continues its work on this measure, I hope it will consider the following items:

*Inclusion of other financial institutions in addition to bank holding companies and Edge Act companies as potential participants in trading company venture. Such authorization would expand the powers of the many regional institutions and thrifts, which I know are of particular interest to the committee and its chairman. Such expanded authorization will extend the benefits of this legislation even further to many smaller community and and small business interests.

*The ceilings on bank investments in export trading companies can be raised without endangering bank safety and soundness which the traditional separation of banking and commerce affords. In addition to a 5% equity

interest, I believe additional lending authority up to 5% of the bank's capital surplus is desirable.

*To avoid unintended restrictions on the effectiveness of trading companies, it would be advantageous to require that they engage principally in export activities rather than exclusively in such activities. Confining operations exclusively to export would diminish the effectiveness and thereby the long-term competitiveness of trading companies.

*To guarantee that export trading companies have the ability to meet special requirements of foreign markets, the limitation on manufacturing activities should, in my opinion, be changed to allow for limited product modification, packaging, and provision of special instructions.

Finally, I would like to thank the chairman and this committee for its expeditious consideration of this legislation. It is a litmus test of our competitiveness. It proves we can and will respond to our new economic challenges.

Chairman ST GERMAIN. I would like to first commend the gentleman from Massachusetts. His involvement, as I stated earlier, and his dedication to export trading legislation is well known. I am hopeful that it will indeed create a void in his schedule in the near future by concluding consideration of this legislation and through its enactment.

As to the jurisdictional problem, as I stated to your colleague, Senator Heinz, who appeared earlier today, the reason the legislation was drafted in this manner is that we could move along on it. I think we have accomplished that purpose and it appears as though the Foreign Affairs Committee has already reported the bill, and the Judiciary Committee at this point in time is motivated as well, so that we should be able to join the two and proceed to the floor within the near future. So I can hopefully reassure you and we look forward to the conference.

Senator Heinz has, through you and your testimony, set forth the agenda for the conference, and we look forward to it.

Senator TSONGAS. In my testimony I have gone through the differences in the two approaches, but we can hold that for the conference.

Chairman ST GERMAIN. Correct.

Senator TSONGAS. Unless you want to resolve it in committee, of course.

Chairman ST GERMAIN. Mr. Wylie.

Mr. WYLIE. I would just like to say welcome to the Banking Committee again. We are glad to see you back in room 2128. I support the legislation, and I have no further questions. Thank you for your testimony.

Senator TSONGAS. I would say, Mr. Wylie, one of the reasons that I ran for the Senate is I sat there and thought of how many years it would take to get up to that top row and thought it was not worth it and took my chances.

Mr. SCHUMER. Mr. Chairman.

Chairman ST GERMAIN. Mr. Schumer.

Mr. SCHUMER. I would like to announce my candidacy for the U.S. Senate.

Chairman ST GERMAIN. How would you like to be our colleagues that are down there, and down there? Wowee, it is getting bigger all the time.

Mr. McKinney.

Mr. MCKINNEY. It is amazing how rapidly Watergate elevated us on this side of the aisle.

Senator Tsongas, I am delighted to see you here. As one of the ardent sponsors of your industrial park in Lowell, Mass., I was a visitor to your city, and I assume you would like to have the workers back busy working rather than put them into an industrial historical park, but representing the city of Bridgeport, where we have lost 12 major industries in the last 10 years—despite my valiant efforts, obviously—I, too, support this legislation and I can promise you that on this side we are very anxious to move it ahead and get it going. I am sure you will find plenty to do once it is passed.

Chairman ST GERMAIN. Again, we thank you and look forward to seeing you soon in conference.

Senator TSONGAS. I am no longer on the Banking Committee. I am trying to get back on. Hopefully, I can be on it by the time you get this thing through.

Thank you, Mr. Chairman.

Chairman ST GERMAIN. The Chair would state that unfortunately, due to the schedule on the floor tomorrow morning, the hearing that we had scheduled for 9:30 a.m. will have to be postponed until next Tuesday, May 25, at which time we will hear from those witnesses that had been scheduled for tomorrow, as well as some of the witnesses scheduled for Tuesday.

We will be taking up the Olympic coin bill and the net worth guarantee bill on the floor tomorrow morning.

The subcommittee stands in recess until May 25 at a time to be determined. At that time our first witness will be the Deputy Secretary of the Treasury, Tim McNamar.

The subcommittee stands in recess.

[Whereupon, at 11:30 a.m. the subcommittee adjourned, to reconvene at 10:30 a.m., May 25, 1982.]

THE BANK EXPORT SERVICES ACT

TUESDAY, MAY 25, 1982

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:35 a.m., in room 2118, Rayburn House Office Building, Hon. Fernand J. St Germain (chairman of the subcommittee) presiding.

Present: Representatives St Germain, Annunzio, LaFalce, Vento, Schumer, McKinney, and Lowery.

Chairman ST GERMAIN. The subcommittee will come to order.

Our first witness this morning is Hon. R. T. McNamar, Deputy Secretary of the Treasury.

Mr. McNamar, we will put your entire statement in the record, and you may proceed.

STATEMENT OF HON. R. T. McNAMAR, DEPUTY SECRETARY, DEPARTMENT OF THE TREASURY

Mr. MCNAMAR. The statement is reasonably short. I think I can confine myself to the 10-minute limit.

Mr. Chairman and members of the subcommittee, I would like to join with Secretary Baldrige's previous statement in strong support of legislation to encourage the formation of export trading companies by removing current Government disincentives in the key banking and antitrust areas.

I would also commend you, Mr. Chairman, for introducing H.R. 6016, the Bank Export Services Act, which in the administration's view is a most promising approach to this issue. Your effort to secure a strong export trading company bill is an important contribution to broad Government efforts to enhance the international competitiveness of the United States and to permit the market to operate more effectively and our economy to prosper and grow.

A growing export sector has become increasingly important to our economic well-being. Exports contribute significantly to U.S. employment, production, and growth; they help create economies of scale which contribute to the efficient allocation of resources and thereby reduce prices. And exports are needed to pay for U.S. imports of essential commodities including oil.

While I do not think I need to dwell here on the growing importance of our export performance, it may be useful to explain some of the difficulties facing small- and medium-sized U.S. firms wishing to export goods and services.

In the last decade the percentage of all the goods the United States produces for export has doubled from less than 10 percent to more than 20 percent today. But the potential for exporting American goods is far greater, and the Reagan administration believes it could be substantially enhanced by providing small- and medium-sized U.S. firms increased opportunities to export. These firms are now faced with a number of problems in seeking to export. This is true whether they use existing export management companies or provide complementary products for overseas sales by the large multinational firms.

Such small firms often lack the specialized knowledge of foreign markets necessary to export directly, the funds required for foreign market development, familiarity with foreign laws and regulations, and adequate financing for foreign purchasers of goods or services.

Most current export management companies that could handle transactions for small U.S. firms often lack the expertise necessary to handle more than one or two specialized product lines. They also lack the management depth and capital necessary to expand geographically and establish overseas sales offices. The large U.S. multinationals also do not generally involve smaller firms directly in international trade. Small- and medium-size firms need the capital, financing, financially related services, and marketing capacities which U.S. banking organizations can provide through their national and international networks.

Bank-related export trading companies would be an additional alternative to the existing export mechanisms. We believe they would encourage the involvement of many more small- and medium-sized firms in export trade. As demonstrated by the successful operation of export trading companies in other countries, an export trading company can develop and provide an integrated package of managerial and financial services to facilitate exports. Export trading companies, through volume transactions, also permit economies of scale that would reduce the costs of exporting goods or services by U.S. firms.

To date U.S. banks have had a limited role in the export of goods and services. Although a number of U.S. banking organizations have the systems, skills, local presence, and experience necessary to provide multiple export services to U.S. firms, they need broader authority to do so effectively.

U.S. banks can now provide a variety of services relating to exports, either directly or through their Edge Act corporations and affiliates. These services include financing, foreign exchange facilities, information on foreign markets, business reference, and advice on shipping arrangements. Although the corporate powers of national banks include "incidental" powers necessary to carry on the business of banking, the regulatory agencies determine what are legitimate "incidental" services, and this term quite clearly does not authorize banks to engage directly in commercial activities. There is nothing in present banking legislation which appears to give national banks the ability to act as: A buyer or seller; negotiate the terms of export sales as an export agent; take title to goods on behalf of U.S. exporters. Rather, the banks today are operating basically as finders bringing the two parties together.

We are convinced that active, profitable participation of banking organizations in export trading companies can be encouraged without disregarding the traditional policy of separating banking and commerce in the interest of preserving the safety and soundness of the banking system and the openness of our markets. The administration feels that your bill maintains this traditional separation by authorizing export trading companies only as subsidiaries of bank holding companies. We wholeheartedly endorse this approach, since: (1) With the proper safeguards it would not impose a significantly higher risk on the banks in the holding company group; and (2) with appropriate changes in banking laws, it would not give bank-affiliated ETC's an unfair competitive advantage over other business concerns competing for access to credit.

For these reasons, we cannot support investment by Edge Act corporations in export trading companies unless the Edge Act corporation is a subsidiary of a bank holding company. Investment in an export trading company by an Edge Act corporation places the bank owning the Edge Act corporation directly at risk in the highly competitive export trading business. The success or failure of the ETC will have a direct effect on the financial strength of the bank. We believe this is an inappropriate level of risk for banks, the safety and soundness of which is essential to our economy and insured ultimately by the Federal Government. By contrast, we believe that reliance on the bank holding company as the exclusive vehicle for investment in export trading companies serves the competing objectives involved here.

In making recommendations, we recognize that many small banks with assets of less than $100 million do not have nor wish to incur the expense of setting up a bank holding company. We suggest these banks, to the extent they want to set up an ETC, be permitted to do so as a subsidiary of the bank. Although direct investment in ETC's by smaller banks raises some concern for their safety and soundness, the level of their involvement in ETC's is unlikely to be substantial. Moreover, existing banking laws limit the capital commitment which these banks can make to nonbanking subsidiaries, and this will provide some protection against serious losses. We also believe that to the extent that small banks get into the ETC business, they will do so through shared ownership with other small banks, thus further reducing the risk to each individual participant.

Setting the maximum asset level at $100 million for this exception would permit approximately 88 percent of all insured banks to own ETC's directly—to the extent they are not subsidiaries of holding companies. Raising this threshold to $300 million would exempt 96 percent of all insured banks from the requirement that investment in an ETC be routed through the bank holding company. While a high threshold would permit all but a few very large banks to avoid the costs associated with forming bank holding companies, it would increase the risks to the bank owning the ETC and diminish the number of ETC's which would compete with other businesses on an equal footing. The higher the exemption threshold, the larger the number of ETC's which can derive special advantages from their direct relationship with a bank.

In view of our proposal to limit investment in export trading companies to bank holding companies, we would propose deleting the section of H.R. 6016 that requires prior Federal Reserve Board approval of bank holding company investments in an export trading company. We are convinced that the separation provided by this structure and the existing Federal Reserve Board oversight of the activities of a bank holding company afford sufficient protection to the assets of affiliated banks to obviate the need for a special set of preclearance regulations. The more regulatory restrictions that are imposed on the establishment of an ETC, the less likely we are to see new ETC's. This is particularly true of export trading, where the Federal Reserve Board has no special expertise with which to assess the practicality or likely consequences of a holding company's proposed activities. The decision on whether to go into the business and under what circumstances is best left to holding company management and not to regulators. Long delays, a costly application process, and severe limitations on activities will only discourage bank holding companies from investing in ETC's. It is important that Congress send a clear direction to the Federal Reserve Board that it wants to promote the establishment of ETC's.

We would suggest that the provisions for prior Federal Reserve Board approval be replaced by a requirement for periodic reporting of export trading company activities to the Federal Reserve Board. Federal Reserve Board intervention could then focus on those ETC's where reports suggest some risks to the safety and soundness of the bank holding company or its subsidiary banks. We feel that this oversight maintains the appropriate public policy concerns that underlie the traditional separation of banking and commercial activities.

Similarly, we see no reason to place a limit on the amount of investment that a bank holding company may make in an export trading company. The limitation in H.R. 6016, 5 percent of the bank holding company's consolidated capital and surplus, causes us particular concern. First of all, the consolidated capital and surplus of a nonbanking institution such as a holding company can vary dramatically from year to year. Indeed, for nonbanking institutions the concept of surplus is ambiguous; it can consist of paid-in capital in excess of par, or retained earnings, or both. This ambiguity in itself may hinder holding company investment. But most important, a restriction like this has its biggest impact on the medium-sized regional banks, which may not have the capital and surplus base—however defined—adequately to capitalize an ETC. So long as the safety and soundness of the bank is insured, and it is by use of the holding company structure, the amount of investment by a holding company in an ETC should be left to the judgment of management.

We also think it unnecessary and inappropriate to apply the restrictions of section 23A of the Federal Reserve Act to loans by the bank holding company to its ETC. Doing so ignores the important distinction between the bank and its holding company, and has no precedent elsewhere in the Bank Holding Company Act. The holding company has no depositors and no insured accounts; it needs no

more regulation of its loans to subsidiaries than any other business enterprise.

Our view is the opposite with respect to banks. We would, of course, like to have statutory assurance that all dealings, including loans, between an ETC and its affiliated banks be on an arm's-length basis, and that the collateral and other requirements of section 23A would continue to apply to loans made to the ETC by its affiliated banks. In fact, we would support strengthening the restrictions on transactions between banks and their affiliates so as to protect the bank's assets from risks associated with these other activities and to assure that the nonbanking affiliates of a bank are not given unfair competitive advantages by virtue of the affiliation.

Finally, I would like to endorse Secretary Baldrige's proposals that there be explicit authority for taking title to goods. We think the bill implicitly permits ETC's to take title to goods, but we would suggest that this be made explicit, since the ability to take title to goods is critical in making ETC's more than mere freight-forwarders and attracting bank holding company investment. We also endorse Secretary Baldrige's belief that it would be useful for an export trading company to have a name similar to its bank holding company, since this should enhance the ETC's recognition in foreign markets and boost interest in its services.

Although we recommend several changes to H.R. 6016, we fully support your efforts to bring the resources of our banking organizations more fully behind our exports. In particular, H.R. 6016 makes an important contribution by introducing the idea of channeling investment in export trading companies through the bank holding company structure. Treasury staff has already furnished your staff with appropriate language for the changes I recommend, and for certain other technical amendments. With these changes, I believe passage of H.R. 6016 will substantially improve this Nation's export efforts.

Thank you for your attention to this important issue. I will be happy to answer your questions.

[Mr. McNamar's prepared statement; Chairman St Germain's May 28, 1982, letter containing questions in regard to H.R. 6016; and Mr. McNamar's response to Chairman St Germain's questions, dated June 10, 1982, follow:]

STATEMENT OF

THE HONORABLE R. T. McNAMAR

DEPUTY SECRETARY OF THE TREASURY

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,

REGULATION AND INSURANCE

COMMITTEE ON BANKING, FINANCE AND

URBAN AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

MAY 25, 1982

Mr. Chairman and members of the subcommittee, I would like to join with Secretary Baldrige's previous statement in strong support of legislation to encourage the formation of export trading companies by removing current government disincentives in the key banking and antitrust areas.

I would also commend you, Mr. Chairman, for introducing H.R. 6016, the Bank Export Services Act, which in the Administration's view is a most promising approach to this issue. Your effort to secure a strong export trading company bill is an important contribution to broad government efforts to enhance the international competitiveness of the United States and to permit the market to operate more effectively and our economy to prosper and grow.

A growing export sector has become increasingly important to our economic well-being. Exports contribute significantly to U.S. employment, production and growth; they help create economies of scale which contribute to the efficient allocation of resources and thereby reduce prices. And exports are needed to pay for U.S. imports of essential commodities including oil.

While I don't think I need to dwell here on the growing importance of our export performance, it may be useful to explain some of the difficulties facing small and medium-sized U.S. firms wishing to export goods and services.

In the last decade the percentage of all the goods the United States produces for export has doubled from less than 10 percent to more than 20 percent today. But the potential for exporting American goods is far greater, and the Reagan Administration believes it could be substantially enhanced by providing small and medium-sized U.S. firms increased opportunities to export. These firms are now faced with a number of problems in seeking to export. This is true whether they use existing export management companies or provide complementary products for overseas sales by the large multinational firms.

Such small firms often lack the specialized knowledge of foreign markets necessary to export directly, the funds required for foreign market development, familiarity with foreign laws and regulations, and adequate financing for foreign purchasers of

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goods or services.

Most current export management companies, that could handle transactions for small U.S. firms, often lack the expertise necessary to handle more than one or two specialized product lines. They also lack the management depth and capital necessary to expand geographically and establish overseas sales offices. The large U.S. multinationals also do not generally involve smaller firms directly in international trade. Small and medium-size firms need the capital, financing, financially-related services and marketing capacities which U.S. banking organizations can provide through their national and international networks.

Bank-related export trading companies would be an additional alternative to the existing export mechanisms. We believe they would encourage the involvement of many more small and medium-sized firms in export trade. As demonstrated by the successful operation of export trading companies in other countries, an export trading company can develop and provide an integrated package of managerial and financial services to facilitate exports. Export trading companies, through volume transactions, also permit economies of scale that would reduce the costs of exporting goods or services by U.S. firms.

To date U.S. banks have had a limited role in the export of goods and services. Although a number of U.S. banking

organizations have the systems, skills, local presence and experience necessary to provide multiple export services to U.S. firms, they need broader authority to do so effectively.

U.S. banks can now provide a variety of services relating to exports, either directly or through their Edge Act corporations and affiliates. These services include financing, foreign exchange facilities, information on foreign markets, business references, and advice on shipping arrangements. Although the corporate powers of national banks include "incidental" powers necessary to carry on the business of banking, the regulatory agencies determine what are legitimate "incidental" services, and this term quite clearly does not authorize banks to engage directly in commercial activities. There is nothing in present banking legislation which appears to give national banks the ability to act as: a buyer or seller; negotiate the terms of export sales as an export agent; take title to goods on behalf of U.S. exporters. Rather, the banks today are operating basically as finders bringing the two parties together.

We are convinced that active, profitable participation of banking organizations in export trading companies can be encouraged without disregarding the traditional policy of separating banking and commerce in the interest of preserving the safety and soundness of the banking system and the openness of our markets. The Administration feels that your bill maintains this traditional separation by authorizing export trading

companies only as subsidiaries of bank holding companies. We wholeheartedly endorse this approach, since (1) with the proper safeguards it would not impose a significantly higher risk on the banks in the holding company group and; (2) with appropriate changes in banking laws, it would not give bank-affiliated ETCs an unfair competitive advantage over other business concerns competing for access to credit.

For these reasons, we cannot support investment by Edge Act corporations in export trading companies unless the Edge Act corporation is a subsidiary of a bank holding company. Investment in an export trading company by an Edge Act corporation places the bank owning the Edge Act corporation directly at risk in the highly competitive export trading business. The success or failure of the ETC will have a direct effect on the financial strength of the bank. We believe this is an inappropriate level of risk for banks, the safety and soundness of which is essential to our economy and insured ultimately by the Federal Government. By contrast, we believe that reliance on the bank holding company as the exclusive vehicle for investment in export trading companies serves the competing objectives involved here.

In making recommendations, we recognize that many small banks with assets of less than $100 million do not have nor wish to incur the expense of setting up a bank holding company. We suggest these banks, to the extent they want to set up an ETC, be

permitted to do so as a subsidiary of the bank. Although direct investment in ETCs by smaller banks raises some concern for their safety and soundness, the level of their involvement in ETCs is unlikely to be substantial. Moreover, existing banking laws limit the capital commitment which these banks can make to non-banking subsidiaries and this will provide some protection against serious losses. We also believe that to the extent that small banks get into the ETC business, they will do so through shared ownership with other small banks, thus further reducing the risk to each participant.

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the section of H.R. 6016 that requires prior Federal Reserve Board approval of bank holding company investments in an export trading company. We are convinced that the separation provided by this structure and the existing Federal Reserve Board oversight of the activities of a bank holding company afford sufficient protection to the assets of affiliated banks to obviate the need for a special set of preclearance regulations. The more regulatory restrictions that are imposed on the establishment of an ETC the less likely we are to see new ETCs. This is particularly true of export trading, where the Federal Reserve Board has no special expertise with which to assess the praticality or likely consequences of a holding company's proposed activities. The decision on whether to go into the business and under what circumstances is best left to holding company management and not to regulators. Long delays, a costly application process and severe limitations on activities will only discourage bank holding companies from investing in ETCs. It is important that Congress send a clear direction to the Federal Reserve Board that it wants to promote the establishment of ETCs.

We would suggest that the provisions for prior Federal Reserve Board approval be replaced by a requirement for periodic reporting of export trading company activities to the Federal Reserve Board. Federal Reserve Board intervention could then focus on those ETCs where reports suggest some risks to the safety and soundness of the bank holding company or its

subsidiary banks. We feel that this oversight maintains the appropriate public policy concerns that underlie the traditional separation of banking and commercial activities.

Similarly, we see no reason to place a limit on the amount of investment that a bank holding company may make in an export trading company. The limitation in H.R. 6016, 5% of the bank holding company's consolidated capital and surplus, causes us particular concern. First of all, the consolidated capital and surplus of a non-banking institution such as a holding company can vary dramatically from year to year. Indeed, for non-banking institutions the concept of surplus is ambiguous; it can consist of paid in capital in excess of par, or retained earnings, or both. This ambiguity in itself may hinder holding company investment. But most important, a restriction like this has its biggest impact on the medium-sized regional banks, which may not have the capital and surplus base -- however defined -- adequately to capitalize an ETC. So long as the safety and soundness of the bank is ensured, and it is by use of the holding company structure, the amount of investment by a holding company in an ETC should be left to the judgment of management.

We also think it unecessary and inappropriate to apply the restrictions of section 23A of the Federal Reserve Act to loans by the bank holding company to its ETC. Doing so ignores the important distinction between the bank and its holding company, and has no precedent elsewhere in the Bank Holding Company Act.

The holding company has no depositors and no insured accounts; it needs no more regulation of its loans to subsidiaries than any other business enterprise.

Our view is the opposite with respect to banks. We would, of course, like to have statutory assurance that all dealings, including loans, between an ETC and its affiliated banks be on an arm's length basis, and that the collateral and other requirements of section 23A would continue to apply to loans made to the ETC by its affiliated banks. In fact, we would support strengthening the restrictions on transactions between banks and their affiliates so as to protect the bank's assets from risks associated with these other activities and to assure that the non-banking affiliates of a bank are not given unfair competitive advantages by virtue of the affiliation.

Finally, I would like to endorse Secretary Baldrige's proposals that there be explicit authority for taking title to goods. We think the bill implicitly permits ETCs to take title to goods, but we would suggest that this be made explicit since the ability to take title to goods is critical in making ETCs more than mere freight-forwarders and attracting bank holding company investment. We also endorse Secretary Baldrige's belief that it would be useful for an export trading company to have a name similar to its bank holding company since this should enhance the ETC's recognition in foreign markets and boost interest in its services.

Although we recommend several changes to H.R. 6016, we fully support your efforts to bring the resources of our banking organizations more fully behind our exports. In particular, H.R. 6016 makes an important contribution by introducing the idea of channelling investment in export trading companies through the the bank holding company structure. Treasury staff has already furnished your staff with appropriate language for the changes I recommend, and for certain other technical amendments. With these changes, I believe passage of H.R. 6016 will substantially improve this nation's export efforts.

Thank you for your attention to this important issue. I will be happy to answer your questions.

FERNAND J. ST GERMAIN, R.I., CHAIRMAN
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CARROLL HUBBARD, JR., KY.
NORMAN E. D'AMOURS, N.H.
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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS

WASHINGTON, D.C. 20515

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May 28, 1982

Honorable Richard McNamar
Deputy Secretary
Department of the Treasury
Washington, D. C. 20220

Dear Mr. Secretary:

On behalf of the Subcommittee on Financial Institutions, I want to thank you for your testimony on H.R. 6016, the Bank Export Services Act. Your testimony was thorough and informative, however, on a number of issues further clarification is needed. To assist the Subcommittee in its consideration of H.R. 6016, please provide responses to the questions set forth below:

1. On page 7 of your testimony, you express the belief of the Department of the Treasury that existing Federal Reserve Board examination and supervision procedures of bank holding companies are to protect bank assets. A 1981 report of the Government Accounting Office, "The Federal Reserve Could Improve the Efficiency of Bank Holding Company Inspections", lists a number of serious defects in Federal Reserve oversight procedures. Please comment on this report and its implications for bank holding company involvement in export trading companies.

2. On pages 5 and 6 of your statement you advocate allowing banks with less than $100 million in assets to invest in export trading companies directly. Specifically, what export promotion benefits would be derived from an export trading company being affiliated with a small bank? What commercial contacts and familiarity with foreign markets do small banks have to share with U.S. exporters? Is it possible that allowing small banks to invest directly in export trading companies will expose them to financial risk with little or no export promotion benefits?

3. Your written testimony, on page 6, while recognizing that investments in export trading companies by small banks raises some concern for their safety and soundness, also states that if small banks are allowed to directly invest in these trading companies, their level of involvement is "unlikely to be substantial". On what do you base this assertion.

It would be most appreciated if the Subcommittee could receive your responses to these questions before June 4, 1982.

Sincerely,

Fernand J. St Germain
Chairman

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

June 10, 1982

Dear Mr. Chairman:

I am pleased to respond to your letter of May 28, 1982, which contains three questions with respect to my testimony before your Committee regarding H.R. 6016 on May 25, 1982. I would appreciate your adding these responses to the record.

For convenience, I have stated your question, as presented in your letter, and provided my response after the question.

Question 1. On page 7 of your testimony, you express the belief of the Department of the Treasury that existing Federal Reserve Board examination and supervision procedures of bank holding companies are [sufficient] to protect bank assets. A 1981 report of the Government Accounting Office, "The Federal Reserve Could Improve the Efficiency of Bank Holding Company Inspections", lists a number of serious defects in Federal Reserve oversight procedures. Please comment on this report and its implications for bank holding company involvement in export trading companies.

Answer: First, it should be noted that my comments are directed at the provision of H.R. 6016 that would require Federal Reserve Board approval before a bank holding company could establish an export trading company. As you know, the Treasury would prefer that all export trading companies be subsidiaries of holding companies and not subsidiaries of banks (except for the small bank exception). Given that conceptual difference in approach, we do not believe that prior Federal Reserve Board approval is necessary or appropriate because it would only make the establishment of an export trading company more difficult and, therefore, less likely to occur. We prefer to see the Federal Reserve Board's efforts directed toward assuring the safety and soundness of banks which are subsidiaries of holding companies rather than attempting to regulate the non-banking activities of holding companies.

Second, the General Accounting Office's report focuses on changes that should be made to improve the effectiveness of bank holding company examination and reporting procedures. The report does not conclude that examination and reporting procedures are conceptually or structurally inadequate to deal with problems. On the contrary, on page 30 of that report the General Accounting Office concluded that "The Federal Reserve's

surveillance system can be an effective tool for identifying potential problem companies and for directing the use of on site inspection resources." The report goes on to point out some shortcomings of these procedures.

We are of the view -- apparently concurred in by GAO -- that the Federal Reserve's examination and supervision procedures for bank holding companies are sufficient to protect affiliated banks' assets whether the nonbank affiliate is an export trading company or any other affiliate. Of course, as GAO points out, such procedures can and should be made better. We recommend certain statutory changes, such as amending section 23A of the Federal Reserve Act to control more strictly transactions between banks and their affiliates. The point is that the Federal Reserve should devote its limited resources to protecting bank safety and soundness and not to the excessive regulation and oversight of the nonbanking activities of bank holding companies.

Question 2. On pages 5 and 6 of your statement you advocate allowing banks with less than $100 million in assets to invest in export trading companies directly. Specifically, what export promotion benefits would be derived from an export trading company being affiliated with a small bank? What commercial contacts and familiarity with foreign markets do small banks have to share with U.S. exporters? Is it possible that allowing small banks to invest directly in export trading companies will expose them to financial risk with little or no export promotion benefits?

Answer: We believe that "small" banks that are not already a part of a holding company system should be afforded the opportunity to participate in some way as investors in export trading companies. Because this would require them to engage in a corporate reorganization for a very limited purpose, we thought it appropriate to create an exemption enabling small banks to own export trading companies directly.

We agree that most small banks do not have the same degree of commercial contacts and familiarity with foreign markets as do larger banking institutions. Accordingly, while we believe that most small banks will forego the opportunity to invest in export trading companies, many may elect to enter the business and this will be a spur to U.S. exports. It is also possible that some small banks may pool their resources and expertise and jointly invest in an export trading company. However, we do not believe that it is appropriate to place the holding company barrier in front of those small banks that believe they have the resources to engage effectively in such business. While there is an added degree of risk in allowing the activity to be conducted in the bank, we believe that given the limited level of expected investments, the risk can be adequately

dealt with by the existing regulatory structure. Nonetheless, to the extent these small banks choose to participate in export trading companies, they will make additional capital available to enhance the prospects of export trading companies and the promotion of exports.

Question 3. Your written testimony, on page 6, while recognizing that investments in export trading companies by small banks raises some concern for their safety and soundness, also states that if small banks are allowed to directly invest in these trading companies, their level of involvement is "unlikely to be substantial." On what do you base this assertion.

Answer: The basis is that small banks, by and large, have not traditionally been involved in international trade finance. They are therefore unlikely to make substantial direct equity investments on their own. It is much more likely that they will participate in transactions with export trading companies, or enter into shared ownership arrangements with other small banks. Furthermore, small banks will be sought out to participate in transactions managed by investment banks. Having these readily available avenues, small banks need not make large direct equity investments. We expect that financing local needs will continue to be their primary focus, as this does not require the kind of specialized expertise needed for operating an export trading company.

Sincerely,

R. T. McNamar

The Honorable
Fernand J. St Germain
Chairman
Subcommittee on Financial Institutions
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515

Mr. McNamar. I have with me Peter Wallison, the General Counsel of the Treasury Department, and we would be delighted to answer any of your questions.

Chairman St Germain. Thank you, Mr. McNamar.

On page 7 you indicate the belief of the Treasury that existing Federal Reserve Board oversight activities of bank holding companies are adequate for the purpose of protecting bank assets. The GAO has put out three reports, "An Economic Overview of the Bank Solvency Regulation," "The Federal Structure for Examining Financial Institutions Can Be Improved," "Federal Reserve Could Improve the Efficiency of Bank Holding Company Inspections."

Have you read those reports?

Mr. McNamar. No, sir, I have not read any of them.

Chairman St Germain. Has your staff?

Mr. Wallison. No, we have not reviewed those.

Chairman St Germain. I would commend them to you as assigned reading, and the reason for that is that they do indeed list a number of areas involving serious defects in the present oversight procedures. I remember Arthur Burns, when he was Chairman of the Fed, admitting to me that their oversight of bank holding companies left a great deal to be desired. Obviously, that has not improved in the interim period. The reason I bring that up is that it is these examination activities that you say we can rely on in order to prevent bank holding companies from making decisions that impact severely on the bank within the holding core structure, I think it is important that we look at those and that once you have looked at those you provide us further comment, and frankly, the sooner the better, because as you know we would like to go to markup.

Mr. McNamar. We will go through those reports. If I may submit our reaction to them on this narrow issue for the record, I would appreciate the opportunity.

Chairman St Germain. That is the point. Right.

If as you maintain in your statement the Fed has no special expertise with which to assess the practicality of holding companies' activities as far as exports are concerned, then I have a problem. How we can rely on normal oversight activities of the Fed again in conjunction with these GAO reports. So I would like to have this question answered, again, once you have had an opportunity to see these reports and analyze them, particularly that third one, which analyzes their oversight activities.

I have a number of other questions that I shall submit in writing, but you know, we have got to take cognizance of what is happening in the marketplace. We all thought that many institutions had learned a real lesson from the REIT's; is that not correct?

Mr. McNamar. There is quite a distinction you can make.

Chairman St Germain. We thought they had some lessons. Now we look at Drysdale——

Mr. McNamar. Drysdale Government Securities, not Drysdale Securities Inc.

Chairman St Germain. Drysdale Government Securities, and what is the loss to Chase going to be on that one?

Mr. McNamar. I think the anticipated aftertax loss is approximately $135 million at this point. I think that there is really not

an analogy, if I may suggest so, between your proposal for the structure on export trading companies and Drysdale. If I might have a minute perhaps to address those.

Chairman ST GERMAIN. Is there not an analogy that, indeed, points up the importance of using the holding company affiliate?

Mr. MCNAMAR. Absolutely. I think that the holding company affiliate insulates the risk that a bank might have, because I do not think there is any question in our view that there is more risk in engaging in these types of activities than the traditional secured lending activities of a bank, and that is why we think they ought to be legally separated—and, if you will, above the bank, not in a subsidiary.

Chairman ST GERMAIN. Yet we are looking at allowing the smaller banks that do not have as much expertise, knowledge, ability, and I am not being critical, but they are saying we are going to let them go indirectly.

Mr. MCNAMAR. That is right. I think the rationale is those smaller banks are likely to operate very much as they do in correspondent relationships today and relying on a lead bank and have a smaller equity participation. I think that our argument there would be: sure, they can make a bad investment. When they pick up a syndicated loan from a major New York or Los Angeles bank today——

Chairman ST GERMAIN. And it has been known to happen.

Mr. MCNAMAR. Yes. Obviously banks make bad loans all the time.

Chairman ST GERMAIN. They know more about a syndicated loan that they participate in, hopefully, since they have been doing that. Suppose a lead bank in this region was a smaller version of Chase? I hope Chase does not get upset with me, but we have to use this as an illustration.

Mr. MCNAMAR. I think that the Drysdale situation, to use your analogy of Chase, is one where obviously there was a failure of some sort of a self-policing internal audit kind of a control system, because as you know, some securities firms decided long before anyone in this room had ever heard of Drysdale, myself included, that they no longer wished to trade with them, because they regarded the spreads on the repos as being inordinately wide, and when they checked they decided they knew why and discontinued dealing with them. That kind of self-policing goes on, whether it happened at Chase, and whether Chase was principal, and I think that will be decided in the courts—we do not know the facts on that.

I think that you are always going to have decisions that are going to turn out to be questionable decisions, whether they are in a bank or a bank holding company or wherever, and it is because of the additional risk that we think the holding company is more appropriate for the safety and soundness of the banking system. For those smaller banks, and if you recall—even though there are about 12,000 very small banks that are under $100 million in assets—they only represent a very small proportion individually of the banking assets in the United States, and therefore even if, pick a large number, 100 of them were to make a bad investment, the safety and soundness of the system would not be threatened.

Those smaller banks tend to be more heavily capitalized, perhaps even overcapitalized in a number of instances, than do some of the larger banks, and therefore we think that the tradeoff—between the national policy of promoting exports while preserving safety and soundness of the banking system—we think the tradeoff of having some small bank exemption is still appropriate. Again we suggest that the typical small bank is likely to do this only in a consortium, with other small banks and one group of professional managers and following the lead of the money center bank. We think that is an appropriate risk for the safety and soundness of the banking system because the assets involved would be rather small.

Chairman ST GERMAIN. Mr. McKinney?

I will be submitting further questions.

Mr. MCKINNEY. Thank you, Mr. Chairman.

Mr. Secretary, I am very interested in the small-bank issue, because we in the New England Congressional Caucus have just finished doing an export survey of the six New England States. Vermont's exports have increased four times faster than the exports from the rest of the country. That is essentially a small-bank area, a very-small-bank area.

I would be very interested in your written comments on several ideas, if that is possible: One is the idea of using a banker's bank; one is the idea of letting the regulator determine whether or not this bank is really sound enough or the deal sound enough; another is letting the regulator determine what kind of consortium can be made and so on. I have talked to a great many people including some of my colleagues who represent rural areas where food exporting is very important and where they are now trapped under the umbrella of five or six food exporters. They have no control over their market; they are under the control of either the commodity market and/or the big combines who deal with other nations, and a lot of them would like to strike their own deal for their soybeans or what have you.

This is also true in small New England States where you drive over a little hill in New Hampshire and there is a 10,000-square-foot factory turning out a microchip or cam or machine tool, and they would like to help. So I really would welcome any suggestions that you all could give us as constructive alternatives to get around the small-bank problem.

It is a little difficult for us to say on one side we want the holding company umbrella and not to say it on the other side. If we had a system that the chairman and I could assure our colleagues was going to create the same type of umbrella for the small banks and the same kind of look-see, I think it would be easier to talk people into supporting the bill. Size is not the only thing. When the chairman was talking I thought, despite all their expertise, Chase has been innovative in figuring out instant disasters several times, the first being the real estate investment trust, and now this situation. So size is not the issue, it is how we protect the bank.

Mr. MCNAMAR. That is correct. I would like to come back to the point about New England. When you drive through the Connecticut River Valley you come across a host of machine tool factories, for example. Some of them make large, heavy duty kinds of ma-

chine tools; others make small specialty tools. But they have tended as you know to focus on our own domestic market because it has been the largest, the fastest growing, the most profitable.

I submit that if you look ahead to the year 1990 and beyond, it is clear that a significant part of the world's automobile industry for example will be in Brazil. A lot of the companies selling toward the domestic automobile industry may not have the current marketing staff to sell down to Brazil or wherever. Pick an industry, there are many people like that. The estimate that the Chase Econometrics made was that this legislation would increase by the year 1985 net exports by $13 billion to $26 billion, and, you know, I think that you can argue as to whether their estimate of whether this would create 300,000, 650,000 new jobs is correct or not. I do not know. That is a pretty wide range. They have left themselves a lot of latitude.

But I think that it is clear that there are whole regions of the country that would particularly benefit from this. Again mentioning New England, if you think about the role of the Boston banks, it is easy to see them exerting a regional lead and forming syndicates as they do with loans with other banks. I know of a bank in Manchester, N.H., that seems to be well managed and aggressive, and I would be surprised if they did not try to find a role in this.

Mr. McKinney. The machine tool companies in Bridgeport are pretty big and already hitting the export market. The little guys are saying Ford is not buying, and Chrysler is not buying, but I think that China, Brazil, and places like that are going to buy. They want to build up their technology, and they have nowhere to go. I agree with you. Any way that we could put language in to assure——

Mr. McNamar. I think we can work with the staff and the committee and find appropriate safeguards.

Mr. McKinney. The other question I have is one that comes up a thousand times. I do not know how to handle it either, it is the question of equity ownership. We limit it to 5 percent in the bill. Some people have said that we should limit it to 10 percent or perhaps 5 percent direct ownership, or 5 percent constant running loan that can be looked at and pulled back. Some say we should not regulate it at all and that we ought to let the regulators regulate it on a per-case basis. I would be interested, and I think the chairman and the whole committee would be in any comments you might have on this. This is a subject that I cannot quite figure out myself.

Mr. McNamar. Let me suggest an approach that maybe provides an appropriate balancing, because that is what the committee is seeking, an appropriate balance. We think that in the holding company outside the bank and the Fed umbrella of insuring the deposits, the legitimate Fed concern about the safety and soundness of the banking system, outside of that bank activity in the holding company we do not think the restrictions are necessary. For the small-bank exemption, there would be a limit there, and we think that a percentage limit there, I think at 10 percent would be perfectly appropriate. Again looking to the safety and soundness question. So that if it were done in the bank we think that a limitation

would be appropriate, but if it were done in the holding company we really do not think it is necessary.

Mr. McKINNEY. Thank you very much. I yield back the balance of my time.

Chairman ST GERMAIN. Mr. Annunzio.

Mr. ANNUNZIO. Thank you, Mr. Chairman. I have no questions, but I want to commend you for introducing the legislation and having these hearings. My own former U.S. Senator from Illinois, Adlai Stevenson, pushed the concept of this legislation in the Senate, and I want to commend the Secretary for being here this morning, Mr. McNamar. Your testimony is very beneficial to the committee. I have read it.

We want to attempt to do all that we can to increase export trade, especially to get small business involved. When you involve small business, you involve jobs, and this is what we need in the country. We need jobs. So I, as a member of the committee, am looking forward to working with the chairman, working with the Treasury Department, and I know that we will have a bill that we can pass out of the committee and bring to the floor that will increase export trade and lower our trade balances. And we want to thank you very much for your excellent, excellent presentation this morning, and your offer to work with the chairman of the committee. We appreciate that.

Chairman ST GERMAIN. Thank you, Mr. Annunzio.

Mr. LaFalce.

Mr. LAFALCE. Thank you, Mr. Chairman.

Mr. McNamar, I have very few questions. You recommend deleting the section of 6016 requiring prior Federal Reserve approval. First of all, I concur with that opinion. Do you think that prior Federal Reserve approval might be desirable for the smaller banks that would not be operating through a bank holding company subsidiary?

Mr. McNAMAR. No. I do not really think that would be necessary or would particularly add anything. I think it would probably slow down the process, be unnecessarily cumbersome. Let us make sure that I have not misled the committee. We are very strongly in favor of Federal Reserve oversight and where there is a safety and soundness issue. For example, where the Fed saw an inappropriate movement of capital or assets from the bank to the holding company, we think they should intervene. That is where they have very legitimate and overriding interest. But in terms of these types of activities, quite frankly, we do not think that the prior Fed approval is necessary and that periodic reporting, whether quarterly or semiannual, I do not know what is appropriate, is sufficient to make sure that no holding company or no bank under a small bank exemption if the committee chooses to have one would run into a safety and soundness issue any more than they do in the normal course of business.

Mr. LAFALCE. I am glad we clarified that point. Let me take this opportunity to elaborate, since we have brought up the subject of the Fed and their role. In their testimony I got the following distinct impression. First of all, they oppose the passage of the bill primarily because they are not concerned about the issue of the exports, they are concerned about the safety and soundness of the

banks, and therefore it behooves them to just play it safe and not try to look at these things in balance. Second, it seemed to me that their advice to the committee was: If you do decide to go ahead and pass an export trading company bill or export services bill, we suggest the following amendments.

The amendments were so structured that they would in effect kill it while creating it, and therefore I think that your recommendation that would delete the necessity of prior Federal Reserve Board approval, given the disposition of the Federal Reserve Board, is not only desirable but necessary if we are going to have successful implementation of this legislation, as opposed to its mere passage.

Thank you, Mr. Chairman.

Chairman ST GERMAIN. I do not think there are any further questions. As I stated, we will have some additional questions in writing. We look forward to continued dialog and assistance with your staff as well.

Mr. MCNAMAR. Could I make one additional point, Mr. Chairman?

Chairman ST GERMAIN. Of course.

Mr. MCNAMAR. That is on the question of the REIT's, and I think obviously this committee has a lot of responsibility to the rest of the House to provide it with informed judgment as to the Drysdale situation, REIT's, whatever. Let me suggest that if you think back on the REIT's experience, there are several things that distinguish the export trading company bill from that. First of all, the REIT's were not in any way affiliates of the banks themselves, and therefore, there is no restriction on the kind of loans, the volume of loans, the security underlying the loans, the creditworthiness of the loans that the REIT's had. They simply were made in effect in an unregulated way to the REIT's. Had those REIT's been in the bank holding company as your legislation would suggest for export trading companies, then the provisions on the bank itself, the 23A provisions, would come into effect and would provide the kind of restrictions we think are appropriate on a bank.

In effect, what happened in the REIT's, too often, was that you had a bank that was dealing with the public, not a commercial transaction as we have here with the export trading companies where the export trading companies are going to be dealing with commercial enterprise in Rhode Island or wherever and a commercial enterprise in the Philippines, but they were dealing with the public. They made a lot of loans to the REIT's after the shares were extended when the real estate financing projects got into trouble. The banks bought back that assets, questionable assets from those REIT's to bail them out.

I think that you have to distinguish that situation from the situation that we have in the export trading companies as you would propose it in your holding company structure here, and I think the additional safeguard is sufficient. And again Drysdale is simply a credit question. There were obviously large and small banks I suppose that made loans years ago to the Pullman Corp. for the manufacture of Pullman cars, and I submit that somewhere along the line those became questionable loans. So you cannot prevent bad loans from being made. You cannot prevent a lot of things from

happening, but you have provided a structure that I think is the appropriate balance between the additional risk and the preservation of the safety and soundness of the banking system.

Mr. McKINNEY. Thank you, Mr. Chairman. I appreciate your remarks, Mr. Secretary. I think you have to realize our concern because universally, bankers are lousy managers of real estate to put it bluntly. It does not make a difference whether it is in a REIT or in their shop. I have checked large banks and small ones, and their return on their real estate investments is quite often even negative. I think the chairman and I appreciate your comments that we have protected this operation, but we just want to make sure we have, because at least in the short period I have been in Congress, we have gone through Penn Central and Lockheed, and we sit here benignly looking at Third World loans which I just know are not worth a darn, but we are not going to say anything about it. We just do not want to create another hidden sort of sinkhole. We will find all of them soon enough and hard enough, probably without any advance warning. That is why we are so eager to protect this operation.

Chairman ST GERMAIN. We thank the Secretary.

Our next witnesses are a panel composed of Mr. Donald D. McCouch, senior vice president and deputy general manager—International, Manufacturers Hanover Trust Co., on behalf of the Bankers' Association for Foreign Trade; Calman J. Cohen, vice president, Emergency Committee for American Trade; Michael D. Edwards, supervisor of banking for the State of Washington, and president, Conference of State Bank Supervisors; John A. Schaffer, president, American Worldwide Trade Co., Inc.; Matthew P. Lawlor, president, U.S. Multitrade Co., accompanied by Joseph McGrath, Esq.; Ralph H. Chew, president, National Association of Export Companies, Inc., accompanied by Gilbert Weinstein, secretary treasurer.

We will hear from the witnesses in the order they appear on the witness list.

Our first witness will be Mr. McCouch.

Mr. McCouch, we will put your entire statement in the record, and you may proceed.

STATEMENT OF DONALD G. McCOUCH, SENIOR VICE PRESIDENT AND DEPUTY GENERAL MANAGER—INTERNATIONAL, MANUFACTURERS HANOVER TRUST CO., ON BEHALF OF THE BANKERS' ASSOCIATION FOR FOREIGN TRADE, ACCOMPANIED BY THOMAS L. FARMER AND GARY WELSH

Mr. McCOUCH. Thank you, Mr. Chairman. My name is Donald G. McCouch, and I am appearing today on behalf of the Bankers' Association for Foreign Trade—BAFT. I am the immediate past president of BAFT and a member of its board of directors. I am also senior vice president and deputy general manager—International of the Manufacturers Hanover Trust Co. Joining me today are the association's counsel, Thomas L. Farmer and Gary M. Welsh of the Washington law firm of Prather Seeger Doolittle & Farmer.

BAFT is pleased to have this opportunity to express its strong support for H.R. 6016, the Bank Export Services Act.

Chairman ST GERMAIN. Did they lower their fee in return for the commercial?

Mr. MCCOUCH. We would like to commend you, Mr. Chairman, and the members of the subcommittee for taking such prompt action on this legislation. We would strongly urge that it be passed this year.

We would like to focus our comments today on banking organization participation in ETC's and the need for increased bankers' acceptance authority. We applaud your decision, Mr. Chairman, to combine these issues in a single Bank Export Services Act. Increased acceptance authority will enable U.S. banking organizations to expand their traditional finance services in support of trade; ETC authority will enable U.S. banking organizations to provide important new services to support exports. The ultimate beneficiaries of these new authorities will be our customers—the U.S. businessman and farmer, and, ultimately, the U.S. economy.

In evaluating ETC legislation, BAFT's overriding purpose has been to insure that banking organizations be given a fair opportunity to acquire ownership interests in ETC's under a set of reasonable safeguards to be administered by the Federal banking agencies. In this regard, we have consistently stressed three basic objectives with respect to banking organization participation in ETC's: First, the importance of participation by banking organizations, given the contributions that they can make to the success of ETC's; second, the financial, managerial, and other benefits of permitting banking organizations to acquire controlling interests in ETC's; and third, the need for statutory and regulatory flexibility, given the many different ways banking organizations may choose to participate in ETC's. BAFT is thus pleased to support section 2 of H.R. 6016 because it accomplishes each of these major objectives.

In support of our endorsement of section 2, we would first like to take this opportunity to highlight a few of the important contributions which banking organizations can make to the success of U.S. export trading companies.

First, U.S. banking organizations can provide an important introductory link between trading companies and U.S. businesses seeking to export their goods or services.

Second, the finance component of an export transaction is sometimes its most crucial element. Banking organization participation in a trading company will expand its capabilities to put forward realistic and competitive financing options.

Third, bank participants can help trading companies penetrate markets abroad and can provide U.S. export trading companies with the knowledge and experience crucial to meeting foreign competition.

Fourth, larger U.S. banking organizations often have highly developed and technologically sophisticated operations and communications possibilities for processing trade transactions.

Finally, bankers have risk assessment and control procedures and general management processes that can contribute to the development of financially sound, well-managed, and reputable U.S. export trading companies.

Let me comment on the reasons for permitting controlling investments by banking organizations.

If banking organizations are to become effective participants in ETC's, they must be given the option of acquiring a controlling interest in an ETC in which they might invest. We believe an individual banking organization is best able to determine the level of investment which is most appropriate to its situation. In this regard, a banking organization with a controlling investment is in a better position to protect its investment and regulate its risk exposure.

In contrast, control restrictions would limit banking organizations to being permanent minority partners in ETC joint ventures or combinations organized and controlled by others. Faced with such restrictions, and given profitmaking opportunities in other areas, banking management would have little reason to allocate valuable capital resources to such ventures, thus frustrating the objective of banking organization involvement.

Now let me turn to the ways banks may wish to participate in ETC's.

Under H.R. 6016, we see a number of possibilities for banking organization participation which can be as varied as our banking system and economy.

Some banking organizations may join together to form an ETC. In particular, an ETC owned by a number of banking organizations from different regions would stimulate the export of goods and services from throughout the country.

Some banking organizations may prefer to organize and form their own trading companies.

Some banking organizations may join with nonbank firms to establish an ETC, either on a permanent or one-shot basis.

Some banking organizations may use an ETC as an opportunity to integrate and expand the types of trade services they already provide their customers.

We think this list is useful because it indicates the wisdom of section 2 of H.R. 6016, which does not mandate any particular form of banking organization participation in ETC's.

Before leaving section 2, Mr. Chairman, the previous witnesses have described a number of possible problem areas in section 2, many of a technical or drafting nature. These are described in your letter to Secretary Baldrige, and we thought that we would offer our comments and suggestions on each issue raised in an effort to assist the subcommittee in its further deliberations.

(1) INVESTMENTS BY NON-BANK-HOLDING COMPANY BANKS

Restricting ETC investment authority to bank holding companies and Edge corporations should not present major problems for our members, since they generally have bank holding company and/or Edge Act affiliates. However, bank investment authority may be desirable for smaller banks that do not have such affiliates.

(2) NAME PROHIBITION

We believe that a banking organization that has a majority controlling interest in an ETC should have the option of name identification with its ETC. This could greatly assist the ETC in gaining acceptance and penetrating markets abroad.

(3) OPERATIONAL TEST

We believe the record in both the House and Senate substantiates the view that ETC's cannot function effectively and be competitive abroad if they are limited to "exclusively" engaging in export activities. We believe that Congress should adopt a "principally engaged-in-exporting" standard, and make clear by legislative history that at least a majority of an ETC's activities must be export-related to satisfy the "principally" test.

(4) MANUFACTURING DEFINITION

We believe that the witnesses from the New England Congressional Institute presented a strong case for allowing ETC's to do limited modification, repackaging, and labeling activities. We do not believe these activities offend the intent of the manufacturing prohibition, and thus suggest that the permissibility of these activities be made clear in the legislative history.

(5) INVESTMENT LIMITS

From the perspective of our members, all of whom are regional or money-center banks, we do not see an initial problem with the current 5-percent investment limitation. However, it may well present problems for smaller banks.

(6) TAKING TITLE TO GOODS

We believe it is clear from the definition of an ETC in H.R. 6016 that an ETC owned by a banking organization would have authority to take title to goods. Committee report language reinforcing this conclusion, however, would be useful.

(7) SECTION 23A PROHIBITIONS

We believe the current provisions of H.R. 6016, which apply section 23A prohibitions at the holding company and Edge corporation level, are unnecessary and could seriously frustrate the objectives of the legislation.

If the subcommittee wishes to put an overall cap on exposure to an ETC, we would favor the approach of S. 734, which puts a 10-percent capital and surplus limit on total investments and loans by a banking organization to an ETC. This applies the basic exposure limits of section 23A without the more onerous collateral requirements.

I now refer to increased acceptance authority, section 3 of H.R. 6016.

We commend you, Mr. Chairman and Representative Barnard, for bringing a much neglected but very important international banking matter to the Congress attention—the need to increase the

present statutory limits on eligible bankers' acceptances (BA's) used in international trade financing.

Why increase the limits?

First, an increase in the limits for eligible BA's is needed to meet increased market demands for acceptance financing of international trade.

Second, there is no underlying prudential reason for having a restrictive aggregate limit on acceptance financing when other bank credit is generally regulated on a per-customer basis.

Third, acceptance limits have become a problem for many regional as well as money-center banks. Federal Reserve statistics indicate that at least 29 BAFT-member banks are at or near the existing limits.

Fourth, increasing the limits for eligible BA's helps assure the availability of fixed-rate credit to finance U.S. exports, a significant amount of which are financed by acceptance credit.

Increasing the aggregate limits thus furthers every purpose intended by Congress in the original Federal Reserve Act—it enhances the competitive position of United States banks in international trade financing, it promotes the role of the United States as a center of international trade and finance, and it provides U.S. exporters with a competitive source of private export financing in world markets.

BAFT strongly supports section 3 of H.R. 6016 and, in this regard, we would like to note briefly our views on each of its principal provisions.

(1) THE 150–200-PERCENT LIMIT

Consistent with section 3 of H.R. 6016, BAFT believes that the aggregate limits on eligible bankers' acceptances should be increased immediately to 150 percent of a bank's paid-up and unimpaired capital stock and surplus and, with permission of the Federal Reserve, up to 200 percent of a bank's paid-up and unimpaired capital stock and surplus. We believe this increase is more than justified by the market and other factors discussed previously.

(2) COVERAGE OF FOREIGN AND NONMEMBER BANKS

Section 3 of H.R. 6016 includes a recommendation by the Federal Reserve Board that acceptance limits be extended to cover all depository institutions in the United States, including branches and agencies of foreign banks. BAFT also supports this extension of coverage because it would be consistent with principles of competitive equality. However, we believe that foreign bank branches and agencies should have their aggregate acceptance limits based on their parent bank's capital and surplus, and would support a statutory clarification to this effect. We believe this position is consistent with the U.S. policy of national treatment and has the beneficial effect of encouraging foreign authorities to adopt similar policies in their regulation of the overseas operations of U.S. banks.

(3) EXCLUSION OF PARTICIPATIONS FROM THE AGGREGATE LIMITS

Section 3 of H.R. 6016 makes it clear that banks can participate their eligible acceptances to other banks and exclude such participations from their aggregate limits. It also establishes the sound rule that banks buying participations must include their participations in their own aggregate limits. BAFT supports both of these provisions.

Over the past several years, there has developed a fair degree of confusion over the regulatory agencies' treatment of participated acceptances for aggregate limit and other purposes. H.R. 6016 thus establishes a much-needed degree of certainty in this area. But, more importantly, H.R. 6016 adopts statutory rules that are not only sound from a banking standpoint but also supportive of broader public interests in the international trade finance area.

First, participations give smaller banks an opportunity to participate in acceptance financing, an opportunity which they might not otherwise have. Second, by being able to participate in this market, smaller banks can extend the cost benefits of acceptance financing to their smaller customers. Third, participations permit banks to combine their limits to meet customers' needs. This again chiefly benefits smaller busineses that may be new to this type of financing, and that may otherwise find it difficult to obtain acceptance credit as banks reach their limits. Ultimately, the chief beneficiaries of the availability of acceptance financing are bank customers.

In conclusion, Mr. Chairman, we would like to express our appreciation for your efforts over many years in support of progressive international banking legislation. The International Banking Act of 1978 and, most recently, the international banking facility legislation, would not have become law without your leadership. We are glad to see you leading the way once again with H.R. 6016, and we hope that all elements of the ETC legislation can be brought together on the House floor.

We would, of course, be pleased to work further with you or your staff on any area where our input may be of assistance.

Chairman ST GERMAIN. We thank you.

[Mr. McCouch's prepared statement, on behalf of the Bankers' Association for Foreign Trade, follows:]

STATEMENT OF

DONALD G. McCOUCH

My name is Donald G. McCouch and I am appearing today on behalf of the Bankers' Association for Foreign Trade (BAFT). I am immediate past President of BAFT and a member of its Board of Directors. I am also a Senior Vice President and Deputy General Manager - International of Manufacturers Hanover Trust Company. Joining me today are the Association's counsel, Thomas L. Farmer and Gary M. Welsh of the Washington law firm of Prather Seeger Doolittle & Farmer.

Since its founding in 1921, BAFT has sought to develop sound banking procedures and services in support of trade. Beginning in the mid 1970's, BAFT made a major commitment to international banking education and to legislative and regulatory activities in the international banking area. Today, BAFT's voting membership of 154 U.S. banks includes virtually all of those having significant international operations. The Association also includes as non-voting members 100 foreign banks maintaining offices in the United States.

BAFT is pleased to have this opportunity to express its strong support for H.R. 6016, the "Bank Export Services Act." We would like to commend you, Mr. Chairman, and the Members of the Subcommittee for taking such prompt action on this legislation. We would strongly urge that it be passed this year.

We believe the substantial hearing record on export trading company (ETC) legislation in both the House and Senate clearly establishes the need for export trading companies in the U.S. We thus see no need at this point to review recent trade statistics and suggest that more be done to promote exports. That is a given. And while projections may differ on just how significant ETCs will be in increasing U.S. exports, there can be no doubt that H.R. 6016 focuses on the greatest area of untapped export potential in the U.S. -- small and medium-sized U.S. businesses.

We would like to focus our comments today on banking organization participation in ETCs and the need for increased bankers' acceptance authority. We applaud your decision, Mr. Chairman, to combine these issues in a single Bank Export Services Act. Increased acceptance authority will enable U.S. banking organizations to expand their traditional finance services in support of trade; ETC authority will enable U.S. banking organizations to provide important new services to support exports. The ultimate beneficiaries of these new authorities will be our customers -- the U.S. businessman and farmer, and, ultimately, the U.S. economy.

BANKING ORGANIZATION PARTICIPATION IN ETCs -- Section 2 of H.R. 6016

In evaluating the several different ETC bills that have been considered over these past few years, BAFT's overriding purpose has been to ensure that banking organizations be given a fair opportunity to acquire ownership interests in ETCs under a set of reasonable safeguards to be administered by the federal banking agencies. In this regard, we have consistently stressed three basic objectives with respect to banking organization participation: (1) the importance of participation by banking organizations given the contributions that banking organizations can make to the success of ETCs; (2) the financial, managerial, and other benefits of permiting banking organizations to acquire controlling interests in ETCs; and (3) the need for statutory and regulatory flexibility given the many different ways banking organizations may choose to participate in ETCs. BAFT is thus pleased to support section 2 of H.R. 6016, because it accomplishes each of these major objectives.

We live today in a highly competitive international environment and we must be prepared to modify barriers or restrictions imposed under vastly different economic circumstances that now only serve to frustrate our broader national interests. Among these restrictions are legal provisions which prevent U.S. banking organizations from investing in

firms, such as U.S. export trading companies, that engage in export trade or in providing certain commercial export trade services.

The restrictions derive principally from the Edge Act of 1919, and they were based on a concern that U.S. export trade might somehow become dominated by one or two large trading companies involving a few industrial giants and the relatively few banks engaged at that time in trade financing. These restrictions thus bear little relation to today's highly competitive world of international trade, and the internationalization of trade financing. In particular, the days when a relatively few money-center banks did most of our trade financing are ancient history. As indicated by the scope of our membership, hundreds of banks -- both domestic and foreign -- are aggressively competing in trade financing across the country.

Section 2 of H.R. 6016 would modify these existing restrictions by giving Edge Corporations and bank holding companies the opportunity to invest in export trading companies with Federal Reserve Board approval. While banks are not included in such investment authority, we do not believe that this will present major problems for our members, since they generally have bank holding company and/or Edge Act affiliates. As suggested by Secretary Baldrige,

however, the Subcommittee may want to consider allowing smaller banks to make direct investments in ETCs in order to give them a reasonable opportunity to participate. We certainly have no objection to such an amendment and, for reasons of investor flexibility, would ultimately like to see all banks be given such authority.

In support of our endorsement of section 2, we would like to take this opportunity to highlight a few of the important contributions which banking organizations can make to the success of U.S. export trading companies, and thus to the improvement of U.S. export performance.

First, the United States banking system reaches virtually every U.S. business, including, especially, small and medium-sized U.S. businesses. United States banking organizations can thus provide an important introductory link between trading companies and U.S. businesses seeking to export their goods or services. In this regard, U.S. banks already play an important role in introducing Eximbank, FCIA and other programs to businessmen throughout the country. There is no better way to reach U.S. business than through the banking system.

Second, in today's world, the finance component of an export transaction is sometimes it most crucial element. A trading company must therefore be able either to provide or arrange for appropriate trade financing.

Bank participation in a trading company will expand its capabilities to put forward realistic and competitive financing options.

Third, bank participants can help trading companies penetrate markets abroad and can provide U.S. export trading companies with the knowledge and experience crucial to meeting foreign competition. Many U.S. banks have substantial international networks that reach into every major export market and which form a tremendous reservoir of talent and experience for a trading company. For example, foreign branches and affiliates of U.S. banks have a detailed knowledge of local economic conditions, government policies, and business practices which would take a de novo trading company years to develop on its own, and which knowledge is crucial for competing abroad.

Fourth, larger U.S. banking organizations often have highly developed and technologically sophisticated operations and communications possibilities for processing trade transactions. Smaller banking organizations can also avail themselves of these capabilities through their correspondent banks.

Lastly, bankers have risk assessment and control procedures and general management processes that can contribute to the development of financially-sound, well-managed, and reputable U.S. export trading companies.

REASONS FOR PERMITTING CONTROLLING INVESTMENTS BY BANKING ORGANIZATIONS

If banking organizations are to become effective participants in ETCs, they must be given the option of acquiring a controlling interest in any ETC in which they might invest. We thus support section 2 of H.R. 6016 which permits a bank holding company or Edge Corporation to determine its own level of equity investment in an ETC, subject, of course, to prior regulatory approval. We believe an individual banking organization is best able to determine the level of investment which is most appropriate to its situation. Arbitrary statutory limits on control only serve to interfere with traditional business judgments and, in the process, can end up creating far more problems than they solve.

The benefits of allowing controlling investments by banking organizations are many:

-- A banking organization with a controlling investment is in a better position to protect its investment and regulate risk exposure. In this regard, many U.S. banking organizations have a policy in their international operations of favoring controlling investments, because equity control ensures operational control and hence better risk management. In this regard, if H.R. 6016 were amended to prohibit controlling investments by banking

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organizations, it would not in any way change a banking organization's ultimate risk exposure of five percent of its capital and surplus for any investments in ETCs. What such an amendment would do is make it more difficult for a banking organization to protect its investments in ETCs.

-- Some banking organizations may only want to organize an ETC for limited purposes, e.g. to assist in certain project financing, to export from a local region or to a specific trade area, or merely to expand their range of export trade services. Control in such situations may be crucial to banking organization participation.

-- Limits on control would, in turn, limit banking organizations to being permanent minority partners in joint ventures or combinations organized by others. Faced with such restrictions, and given profit-making opportunities in other areas, banking management would have little reason to allocate valuable capital resources to such ventures. This was recognized several years ago by the Congress in the area of banking organization investments in Small Business Investment Companies (SBICs), when it lifted control restrictions on bank investments in SBICs in order to encourage more participation by banking organizations.

WAYS OF BANK PARTICIPATION IN ETCs

From our discussions in the banking community, we see a number of possibilities for bank participation which can be as varied as our banking system and economy.

-- Some banking organizations may join together to form an ETC. An ETC owned by a number of banking organizations from the same region could provide a significant export stimulus to the area.

-- An ETC owned by a number of banking organizations from different regions could stimulate the export of goods and services from throughout the country. For example, a banking organization with strong Far East relationships could join with another banking organization with strong Latin American relationships, thus expanding the worldwide export capabilities of a jointly-owned ETC.

-- Some banking organizations will prefer to organize and form their own trading companies. The regional banking organization may form such an ETC to give its smaller customers the one-stop service they need to enter the export market. A money-center banking organization may form such an ETC to assist in facilitiating trade with China or other areas where barter or so-called countertrade elements may be required due to the lack of hard currency.

-- Some banking organizations may join with nonbank firms to establish an ETC, either on a permanent or one-shot basis. For example, a banking organization, an architectural firm, a construction company and a steel fabricator could form a "one-project" ETC to bid on a foreign tender. Or a banking organization might join with an export management company or freight-forwarder to organize an ETC that would provide an opportunity for the more efficient combination of their essentially complementary services.

-- Some banking organizations may use the opportunity to integrate and expand the types of trade services they already provide their customers. For example, an export finance subsidiary of a banking organization could better meet foreign competition on behalf of U.S. exporters if it could take title to goods in the course of a transaction instead of having to proceed through other intermediaries, an activity denied U.S. export finance subsidiaries in the past.

I would note that this list is intended as suggestive only. Nevertheless, I think it is useful because it indicates the wisdom of section 2 of H.R. 6016, which would permit banking organizations to make controlling investments with prior agency approval, and which does not mandate any particular form of ETC organization.

ISSUES RAISED BY H.R. 6016

In expressing our strong support for section 2 of H.R. 6016, Mr. Chairman, we have described how it has accomplished each of the major objectives we have sought relative to participation by banking organizations. Nevertheless, as you noted in your letter of invitation, previous witnesses have described a number of possible problem areas in Section 2, many of a technical or drafting nature. These are described in your letter to Secretary Baldrige, and we thought we would offer our comments and suggestions on each issue raised in an effort to assist the Subcommittee in its further deliberations.

1. Investments By Non-Bank Holding Company Banks

As previously noted, we believe it would be desirable to permit non-bank holding company banks to invest in ETCs. This might give many smaller banks the opportunity to participate with their larger correspondents in the organization of an ETC.

2. Name Prohibition

We believe that a banking organization that has a majority controlling interest in an ETC should have the option of name identification with its ETC. This could greatly assist the ETC in gaining acceptance and penetrating markets abroad. We see little opportunity for confusion

among the investing public, since the shares of an ETC are likely to be owned by one or more large investors, not widely-held by the public. This contrasts with the REIT situation where shares were widely-held and banking organizations did not have majority equity control.

3. Operational Test

We believe the record in both the House and Senate substantiates the view that ETCs cannot function effectively and be competitive abroad if they are limited to "exclusively" engaging in export activities. We believe the Congress should adopt a "principally engaged in exporting" standard, and make clear by legislative history that at least a majority (i.e. greater than 50%) of an ETC's activities must be export-related to satisfy the "principally" test.

4. Manufacturing Definition

We believe that the witnesses from the New England Congressional Institute presented a strong case for allowing ETCs to do limited modification, re-packaging and labeling activities. We do not believe these activities offend the intent of the manufacturing prohibition. We thus suggest that the permissibility of these activities be made clear in the Committee's Report and that other activities be dealt with by the exercise of regulatory discretion.

5. Investment Limits

From the perspective of our members, all of whom are regional or money-center banks, we do not see an initial problem with the current 5 percent investment limitation. However, it may well present problems for smaller banks. Since statutory investment limitations have often proved troublesome in other areas, for example, the 10 percent limit on member bank investments in Edge Act Corporations, the Congress may want to give the Federal Reserve the legal authority to permit investments above such limit on a case-by-case basis. In this regard, as recommended by the Federal Reserve Board in its first report on the International Banking Act of 1978 (IBA), such discretionary authority would also be desirable in the area of member bank investments in Edge Act Corporations (currently subject to a 10% of capital and surplus limit).

6. Taking Title to Goods

We believe it is clear from the definition of an ETC in H.R. 6016 that an ETC owned by a banking organization would have authority to take title to goods. Committee Report language reinforcing this conclusion, however, would be useful. We do not see a need for regulations however, as we believe the reasonableness of any safeguards designed to limit risk in this area can be judged on a case-by-case basis by the regulators.

7. Section 23A Prohibitions

We believe the current provisions of H.R. 6016, which apply § 23A prohibitions at the holding company and Edge Corporation level are unnecessary and could seriously frustrate the objectives of the legislation. Under present law, an ETC that became a subsidiary of a bank holding company would be an affiliate of the holding company's banks for purposes of section 23A. Applying this prohibition at the holding company level is thus unnecessary to protect a holding company's bank subsidiaries. Moreover, section 23A's collateral requirements would effectively prevent a bank holding company or Edge Corporation from providing any meaningful credit support to its ETC affiliate. When such restrictions are combined with the 5 percent investment limit, the overall effect is to frustrate banking organization support of ETCs, in clear contravention of one of the major purposes of ETC legislation.

If the Subcommittee wishes to put an overall cap on exposure to an ETC, we would favor the approach of S. 734 which puts a 10 percent capital and surplus limit on total investments and loans by a banking organization to an ETC. This applies the basic exposure limits of section 23A without the collateral requirements, which are simply inappropriate at the holding company or Edge Corporation level.

INCREASED ACCEPTANCE AUTHORITY -- SECTION 3 of H.R. 6016

We would like to commend you and Representative Barnard for bringing a much neglected but very important international banking matter to the Congress' attention -- the need to increase the present statutory limits on eligible bankers' acceptances (BAs) used in international trade financing.

REASONS FOR INCREASING THE LIMITS

First, an increase in the limits for eligible BAs is needed to meet increased market demands for acceptance financing of international trade. Over the past decade, bankers' dollar acceptances outstanding in the United States have increased from approximately $5.8 billion to $69.2 billion. This more than tenfold increase has resulted largely from the tremendous growth of international trade during this period. The current limits thus serve as an artificial constraint on the ability of U.S. banks to finance the expansion of international trade. Simply put, the dollar dimensions and requirements of international trade have changed greatly since 1916, and it is time Congess changed the acceptance limits to accommodate this reality.

Second, there is no underlying prudential reason for having a restrictive aggregate limit on acceptance

financing when other bank credit is generally regulated on a per customer basis. Congress' initial caution in providing aggregate limits for eligible BAs was the result of its unfamiliarity with acceptance financing (Section 13 of the Federal Reserve Act was intended in part to resolve doubts as to whether national banks had the legal power to accept drafts from others) and the lack of an established acceptance market in the United States. Experience has shown eligible BAs to be among the least risky of bank assets since they are short-term, generally self-liquidating in nature, and there is a large, established acceptance market in the United States that ensures liquidity.

Third, acceptance limits have become a problem for many regional as well as money-center banks. Federal Reserve statistics indicate that at least 29 BAFT member banks are at or near the existing limits. This is consistent with a recent study by staff of the Kansas City Federal Reserve Bank which shows that over the past decade growth in acceptances has been greatest outside the New York Federal Reserve District.

Fourth, increasing the limits for eligible BAs helps assure the availability of fixed rate credit to finance U.S. exports, a significant amount of which are

financed by acceptance credit (acceptances financing exports from the United States totaled $15.4 billion in 1981, an increase of 260 percent since 1977).

Increasing the aggregate limits thus furthers every purpose intended by Congress in the original Federal Reserve Act -- it enhances the competitive position of United States banks in international trade financing, it promotes the role of the United States as a center of international trade and finance, and it provides U.S. exporters with a competitive source of private export financing in world markets.

SECTION 3 OF H.R. 6016

BAFT strongly supports section 3 of H.R. 6016 and, in this regard, we would like to note briefly our views on each of its principal provisions.

1. The 150-200 Limit

Consistent with section 3 of H.R. 6016, BAFT believes that the aggregate limits on eligible bankers' acceptances should be increased immediately to 150 percent of a bank's paid-up and unimpaired capital stock and surplus and, with permission of the Federal Reserve, up to 200 percent of a bank's paid-up and unimpaired capital stock and surplus. We believe this increase is more than justified by the market and other factors discussed above. While

some of our larger members would prefer a greater increase and while some of our regional members, especially those new to the acceptance market, might prefer the status quo, we have nevertheless found broad support among our membership for an increase to the 150-200 limits.

2. Coverage of Foreign and Nonmember Banks

Section 3 of H.R. 6016 includes a recommendation by the Federal Reserve Board that acceptance limits be extended to cover all depository institutions in the U.S., including branches and agencies of foreign banks. BAFT also supports this extension of coverage because it would be consistent with principles of competitive equality. In this regard, we would note that there is a national geographic market for such financing, and it thus seems particularly appropriate that depository institutions operate under common rules in this area.

One issue that has arisen is whether branches and agencies of foreign banks should have their aggregate acceptance limits based on their parent bank's capital and surplus or some allocated capital figure for their U.S. operations. We believe that the parent bank's capital and surplus is the proper measure and we would

support a statutory clarification to this effect. First, section 4 of the IBA and most State laws base branch and agency limitations on parent capital accounts. We believe this position is consistent with the U.S. policy of national treatment and has the beneficial effect of encouraging foreign authorities to adopt similar policies in their regulation of the overseas operations of U.S. banks. Second, since a branch or agency is not separately incorporated, it is most logical from a legal standpoint to base the limits on the parent's accounts.

3. Exclusion of Participations From the Aggregate Limits

Section 3 of H.R. 6016 makes it clear that banks can participate their eligible acceptances to other banks and exclude such participations from their aggregate limits. It also establishes the sound rule that banks buying participations must include their participations in their own aggregate limits. BAFT supports both of these provisions.

Over the past several years, there has developed a fair degree of confusion over the regulatory agencies' treatment of participated acceptances for aggregate limit and other purposes. Our members have often received

conflicting advice as to whether and under what conditions they might exclude participations from their own limits. H.R. 6016 thus establishes a much needed degree of certainty in this area. But, more importantly, H.R. 6016 adopts statutory rules that are not only sound from a banking standpoint but also supportive of broader public interests in the international trade finance area.

First, it is difficult for a smaller bank to enter the acceptance market given the fact that acceptance rates tend to be inversely related to the size of the accepting bank, i.e. smaller banks usually have to pay more on their acceptances to enter the market. This is strictly a function of our market system. Buying participations thus gives smaller banks the opportunity to participate in acceptance financing, an opportunity which they might not otherwise have. Accordingly, participations support one of the principal purposes of Section 3 of the IBA -- the fostering of the participation by regional and smaller banks throughout the U.S. in the provision of international banking and financing services to all segments of U.S. industry, commerce and agriculture (12 U.S.C. 611a).

Second, by being able to participate in this market, smaller banks can extend the benefits of acceptance financing to their smaller customers. In this regard,

acceptance financing is often attractive when compared to the costs of other borrowing alternatives.

Third, demands for acceptance financing can fluctuate greatly and pressures on the aggregate limits can be rapid, and at times, cyclical in nature. Participations permit banks to combine their limits to meet customers' needs. This chiefly benefits smaller businesses that may be new to this type of financing, and that otherwise may find it difficult to obtain acceptance credit as banks reach their limits. Thus, participations support another principal purpose of section 3 of the IBA by affording to U.S. commerce, industry and agriculture at all times a means of financing international trade, especially U.S. exports (12 U.S.C. 611a). In this regard, the principal beneficiaries of the availability of acceptance financing are the banks' customers.

Lastly, participations give banks added flexibility in dealing with statutory customer limits and internal country limits. In this way, there is a diversification of risk among several banks, which, from a prudential standpoint, is better for individual banks and our system as a whole.

CONCLUSION

In conclusion, Mr. Chairman, we would like to express our appreciation for your efforts over many years in support of progressive international banking legislation. The International Banking Act of 1978 and, most recently, the International Banking Facility legislation would not have become law without your leadership. We are glad to see you leading the way once again with H.R. 5016, and we hope that all elements of the ETC legislation can be brought together on the House floor.

We would, of course, be pleased to work further with you or your staff on any area where our input may be of assistance.

Chairman ST GERMAIN. And now we hear from Mr. Calman Cohen. We will put your entire statement in the record.

STATEMENT OF CALMAN J. COHEN, VICE PRESIDENT, EMERGENCY COMMITTEE FOR AMERICAN TRADE

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I am Calman J. Cohen, vice president of the Emergency Committee for American Trade (ECAT). ECAT is an organization of the leaders of 61 major U.S. business firms engaged in a wide range of international activities, including the export of U.S. goods and services. ECAT member companies had 1981 worldwide sales of about $700 billion and employed over 5 million people.

ECAT's purpose is to advocate and support international trade, investment, and tax policies that will expand U.S. international commerce. Since its founding in 1967, ECAT has fought for the reduction and elimination of many self-imposed barriers to U.S. exports.

The opportunity to appear before you today to express the views of ECAT members about export trading company legislation is appreciated. ECAT members' support for the legislation is reflected in ECAT's having helped form, with other groups in the private sector, the Export Trading Company Coalition, which for the past several years has worked on behalf of enactment of export trading company legislation.

The legislation should contribute to increased exports of U.S. goods and services and, thereby, the creation of U.S. jobs. This is one reason why member firms of ECAT have long been interested in the concept of export trading subsidiaries in anticipation of the enactment of legislation.

Mr. Chairman, ECAT members are excited about the prospects of passage of the legislation made possible by your introduction of H.R. 6016 and by your leadership in dealing with the issue of bank participation in trading companies. They are ready to work with you to resolve any outstanding issues.

Before commenting on the specifics of pending trading company legislation, and in particular on H.R. 6016, I would like to note that ECAT companies believe that a major, national effort needs to be taken to improve U.S. competitiveness. The United States dominated world markets in the period following World War II, as the economies of Western Europe and of Japan were recovering from the ravages of war. Recognizing that an economically strong Western Europe and Japan were in our own national interest, we applied our economic resources to get them back on their feet, and they have become once again strong competitors in the trade field.

The statistics on trade tell the story well. Over the period between 1960 and 1980, our share of exports, in absolute terms, to the major Western industrialized countries declined by one-third. In 1960, we enjoyed approximately 21 percent of such trade.

To try to improve the situation, Government could markedly step up export promotion programs. Yet such programs are costly and in times of economic limits, such as today, more and more difficult for Government to undertake, as you have noted, Mr. Chairman.

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A less expensive and more efficient way to proceed may well be through policies, consistent with national economic objectives, designed to allow the private sector itself to take the necessary steps to foster exports. In a time of governmental belt-tightening, we may best achieve our goal of promoting international commerce by partially restructuring the domestic environment for exports. Through appropriate organizational structures, such as export trading companies, export promotion can be advanced at little or no direct cost to the Government.

Certainly, ECAT members do not suggest that trading companies are a panacea. They are not intended to be and will not be a complete solution to our current trade problems. However, they can make a solid contribution to spurring U.S. exports by developing the export infrastructure needed by U.S. companies that have the potential to export but that are not now and otherwise will probably not be exporters on their own.

Trading companies should enable many thousands of small- and medium-sized businesses to venture for the first time into the international trade arena, which otherwise would be too risky a proposition for any one of them individually.

Most importantly, in many developing regions of the world—where sales and distribution networks of U.S. firms are often rudimentary—export trading companies have major potential. Trading companies can take on and perform well the brokering role between U.S. producers and developing country purchasers for industrial and agricultural products that will be in increasing demand.

Mr. Chairman, ECAT applauds your initiative in introducing H.R. 6016. It provides for the participation of bank holding companies and Edge Act corporations in export trading companies. ECAT members view such participation as a significant way for trading companies to strengthen the range and depth of their activities.

Financing will be most important to the operation of export trading companies. Indeed, in export sales time and time again financing has been identified as the factor that can make or break prospective sales. With the participation of bank holding companies and Edge Act corporations in U.S. trading companies, the trading companies increase their ability to service U.S. firms in international transactions and to compete with foreign trading companies which offer a full range of financial services.

During the course of your hearing to date on H.R. 6016, Mr. Chairman, a number of issues have been raised regarding the participation of banking organizations in export trading companies. On these issues, most of which you mentioned in your letter of May 4, 1982, to the Secretary of Commerce, ECAT firms would like now to specifically comment.

First, ECAT would prefer that banking participation in export trading companies not be limited to bank holding companies and Edge Act corporations. The export trading company legislation is designed to allow the products and services of small- and medium-sized companies to enter more directly the export stream of the United States. ECAT believes that small- and medium-sized banks can make a major contribution to exporting and, therefore, would like to see provision made for their participation, subject to appropriate limits, in export trading companies. Indeed, there is every

reason to assume that their participation in export trading companies will lead to a strengthening of the banks' overall performance.

Second, ECAT sees the association of the name of an investing institution with an export trading company to be a distinctive export advantage. Trade names are an important asset in the business world. The association of the trading company with the well-known name of a financial or nonfinancial institution should contribute to its ability to attract clients and to compete internationally with foreign trading companies.

In addition, the association of an export trading company with a particular institution through the use of the institution's name seems to ECAT to be a most appropriate way to convey something important about the nature of the export trading company to the potential user.

Third, the definition of an export trading company which is organized and operated exclusively for purposes of exporting goods or services produced in the United States, or facilitating their export, appears to ECAT to undercut the very basis on which an export trading company needs to operate. For example, it would prevent U.S. export trading companies from taking partial payment in foreign goods for U.S. exports in countries in which foreign exchange is limited. It would prevent U.S. export trading companies from undertaking barter deals. These are regular activities of foreign export trading companies, and the inability of U.S. export trading companies to undertake them would severely limit their competitiveness and, over the long term, their ability to export U.S. goods and services.

ECAT recommends that language be adopted that export trading companies be organized and operated primarily—rather than exclusively—for purposes of exporting goods and services produced in the United States. It can be clarified in report language that fully one-half of an export trading company's business must be related to the export of U.S. goods and services or that a trading company be a "net exporter."

Fourth, product modification by an export trading company may be necessary either for conforming a product to the requirements of a foreign market or for the packaging, shipping, transporting, or other movement of the product. These activities clearly should be permitted under the legislation, and ECAT would support appropriate report language on the matter.

Fifth, limiting investment in an export trading company to 5 percent of a bank holding company's capital and surplus may prove to be too restrictive. ECAT supports a higher ceiling for bank holding companies and, in the event the committee approves bank participation in export trading companies, for banks themselves.

Sixth, ECAT believes that taking title to goods is allowed for under H.R. 6016. Were export trading companies unable to take title to goods, their ability to provide export assistance to U.S. firms would be severely circumscribed. ECAT members support a clarification in the committee report to the effect that taking title to goods is a permissible activity.

Seventh, ECAT members do not believe that loans by a bank holding company or an Edge Act corporation to an export trading company should be regulated under section 23A of the Federal Re-

serve Act, which was designed basically for other purposes. We would prefer to see a specific limit placed on the loan exposure of bank holding companies and Edge Act corporations to export trading companies.

Eighth, under H.R. 6016, all investments of bank holding companies and Edge Act corporations are subject to prior approval by the Board of Governors of the Federal Reserve System. ECAT members would find preferable the establishment of some sort of ceiling, with only investments above the ceiling subject to Federal Reserve approval. This would partially focus the oversight activities of the Federal Reserve on the more substantial investments of bank holding companies and Edge Act corporations.

Ninth, ECAT would like to see export trading companies be able to offer the greatest variety possible of export-related services, including insurance. In this manner, export trading companies would truly become one-stop service centers.

Tenth, if their State charters permit them, public entities, such as port authorities and development agencies, could establish export trading companies. However, H.R. 6016 does not expressly indicate that nonprofit organizations are eligible for export trading company status. ECAT members support an amendment to that effect.

Last, ECAT members would hope that the Federal Reserve Board in setting guidelines for investments in export trading companies designed to guard against undue risk would also, as you, Mr. Chairman, expressed in introducing the Bank Export Services Act, balance this concern with the "national need to expand * * * trade possibilities." We believe that some procedure should be established to evaluate the performance of the Board in achieving the dual intent of Congress.

Again, ECAT appreciates this opportunity to address itself to the subject of export trading company legislation, and commends the chairman and the members of the committee for the careful and thoughtful approach they are taking to the legislation. I would be pleased to answer any questions you may have.

[Mr. Cohen's prepared statement, on behalf of the Emergency Committee for American Trade, follows:]

STATEMENT OF CALMAN J. COHEN, VICE PRESIDENT
EMERGENCY COMMITTEE FOR AMERICAN TRADE, BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE
HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Mr. Chairman and members of the Committee, I am Calman J. Cohen, Vice President of the Emergency Committee for American Trade (ECAT). ECAT is an organization of the leaders of 61 major U.S. business firms engaged in a wide range of international activities, including the export of U.S. goods and services. ECAT member companies had 1981 worldwide sales of about $700 billion and employed over five million people.

ECAT's purpose is to advocate and support international trade, investment, and tax policies that will expand U.S. international commerce. Since its founding in 1967, ECAT has fought for the reduction and elimination of many self-imposed barriers to U.S. exports.

The opportunity to appear before you today to express the views of ECAT members about export trading company legislation is appreciated. ECAT members' support for the legislation is reflected in ECAT's having helped form with other groups in the private sector the Export Trading Company Coalition which for the past several years has worked on behalf of enactment of export trading company legislation.

The legislation should contribute tc increased exports of U.S. goods and services and, thereby, the creation of U.S. jobs. This is one reason why member firms of ECAT have long been interested in the concept of export trading companies and why some now are establishing the framework for trading company subsidiaries in anticipation of the enactment of legislation.

Mr. Chairman, ECAT members are excited about the prospects of passage of the legislation made possible by your introduction of H.R.6016 and by your leadership in dealing with the issue of bank participation in trading companies. They are ready to work with you to resolve any outstanding questions.

U. S. Competitiveness

Before commenting on the specifics of pending trading company legislation, and in particular on H.R.6016, I would like to note that ECAT companies believe that a major, national effort needs to be taken to improve U.S. competitiveness in world markets. The United States dominated world markets in the period following World War II, as the economies of Western Europe and of Japan were recovering from the ravages of war. Recognizing that an economically strong Western Europe and Japan were in our own national interest, we applied our economic resources to get them back on their feet, and they have become once again strong competitors in the trade field.

The statistics on our share of world trade tell the story well. Over the period between 1960 and 1980, our share of exports, in absolute terms, to the major western industrialized countries declined by one-third. In 1960, we enjoyed approximately 21 percent of such trade. By 1980, it was down to some 14 percent. As a recent study prepared for the Congress noted, "The United States has suffered a decline in its competitive position in certain product areas since the late 1960s as a result of improvement in the competitive position of other countries." Futhermore,

the renewed strength of the U.S. dollar vis-a-vis other currencies has the somewhat paradoxical effect of a weakening of the U.S. export performance since a strong dollar makes U.S. exports more expensive and U.S. imports cheaper.

To try to improve the situation, government could markedly step up export promotion programs. Yet such programs are costly and in times of economic limits, such as today, more and more difficult for government to undertake, as you have noted Mr. Chairman.

A less expensive and more efficient way to proceed may well be through policies, consistent with national economic objectives, designed to allow the private sector itself to take the necessary steps to foster exports. In a time of governmental belt-tightening, we may best achieve our goal of promoting international commerce by partially restructuring the domestic environment for exports. Through appropriate organizational structures, such as export trading companies, export promotion can be advanced at little or no direct cost to the government.

Certainly, ECAT members do not suggest that trading companies are a panacea. They are not intended to be and will not be a complete solution to our current trade problems. However, they can make a solid contribution to spurring U.S. exports by developing the export infrastructure needed by U.S. companies that have the potential to export but that are not now and otherwise will probably not be exporters on their own.

Case for Trading Companies

The case for export promotion was made well in 1916 by the Federal Trade Commission which reported that the threat of anti-trust prosecution

ted American companies to draw back from cooperating with one another to challenge foreign cartels. The legislative response of the Congress was the Export Trade Act of 1918, commonly known as the Webb-Pomerene Act, which provides a limited exemption form the antitrust statutes.

Today, again, companies steer away all too often from export trade activities because of the threat of antitrust litigation. They fear that such activities would subject them to costly and time-consuming litigation because of the lack of clarity in the law.

The trading company legislation pending before the Congress is designed to deal with this situation and, thereby, promote U.S. export activity. U.S. business will be able under the legislation to learn in advance whether activities which they wish to undertake could lead to antitrust litigation.

The export trading companies themselves could provide to firms virtually all the services necessary to market and sell abroad, including the financing of export transactions.

Trading companies should enable many thousands of small and medium-sized businesses to venture for the first time into the international trade arena, which otherwise would be too risky a proposition for any one of them individually. In part this will be the case because it will be the trading company -- and not the small and medium-sized firms supplying the trading company -- that will take the many risks associated with export.

Most importantly, in many developing regions of the world -- where sales and distribution networks of U.S. firms are often rudimentary -- export trading companies have major potential. Trading companies can

take on and perform well the brokering role between U.S. producers and developing country purchasers for industrial and agricultural products that will be in increasing demand throughout the developing world.

The Antitrust Provisions

ECAT members believe it essential that any export trading company legislation provide an antitrust certification process for firms that wish to cooperate in their export activities. Through this process, certainty should be established as to the antitrust immunity provided the firms under the Webb-Pomerene Act of 1918. The certainty should also apply to export trading companies formed under the legislation.

It must be emphasized that absent the certainty which would be provided by the certification procedure, companies would remain reluctant to work together to promote exports under the Webb-Pomerene Act.

One of the arguments that has been advanced in opposition to just such a certification process is that it will prove to be excessively bureaucratic. ECAT members do not share that view. In fact, general business community support for a certification process demonstrates that its potential users do not believe it will be excessively regulatory or bureaucratic.

ECAT members are particularly gratified that last week the House Subcommittee on Monopolies and Commercial Law acted on the antitrust provisions of an export trading company bill, H.R.1799, that includes a certification procedure and that was previously ordered reported by the House Committee on Foreign Affairs. While ECAT members continue

to believe that the certification process set out in Title II of H.R.1648 achieves the proper balance between export promotion and proper antitrust enforcement in the area of business conduct, they view the action taken by the Monopolies Subcommittee as both well-directed and helpful.

Banking Provisions

Mr. Chairman, ECAT applauds your initiative in introducing H.R.6016. It provides for the participation of bank holding companies and Edge Act Corporations in export trading companies. ECAT members view such participation as a significant way for trading companies to strengthen the range and depth of their activities.

Financing will be most important to the operation of export trading companies. Indeed, in export sales time and time again financing has been identified as the factor that can make or break prospective sales. With the participation of bank holding companies and Edge Act Corporations in U.S. trading companies, the trading companies increase their ability to service U.S. firms in international transactions and to compete with foreign trading companies which offer a full range of financial services.

During the course of your hearing to date on H.R.6016, Mr. Chairman, a number of issues have been raised regarding the participation of banking organizations in export trading companies. On these issues, most of which you mentioned in your letter of May 4, 1982, to the Secretary of Commerce, ECAT firms would like now to specifically comment.

1. Participation by Non-Bank Holding Company Banks.

ECAT would prefer that banking participation in export trading companies not be limited to bank holding companies and Edge Act Corporations. The

export trading company legislation is designed to allow the products and services of small and medium-sized companies to enter more directly the export stream of the United States. ECAT believes that small and medium-sized banks can make a major contribution to exporting and, therefore, would like to see provision made for their participation, subject to appropriate limits, in export trading companies. Indeed, there is every reason to assume that their participation in export trading companies will lead to a strengthening of the banks' overall performance.

2. Export Trading Company Names Similar to the Investing Institutions.

ECAT sees the association of the name of an investing institution with an export trading company to be a distinctive export advantage. Trade names are an important asset in the business world. While in the medium and long-term, the actual performance of a trading company will have greater importance than its name, in the short term the association of the trading company with the well-known name of a financial or non-financial institution should contribute to its ability to attract clients and to compete internationally with foreign trading companies.

In addition, the association of an export trading company with a particular institution through the use of the institution's name seems to ECAT to be a most appropriate way to convey something important about the nature of the export trading company to the potential user.

3. The "Exclusively" Requirement.

The definition of an export trading company as a company "which is organized and operated exclusively for purposes of exporting goods or services produced in the United States," or facilitating their export,

appears to ECAT to undercut the very basis on which an export trading company needs to operate. For example, it would prevent U.S. export trading companies from taking partial payment in foreign goods for U.S. exports in countries in which foreign exchange is limited. It would prevent U.S. export trading companies from undertaking barter deals in countries in which foreign exchange is unavailable. In addition, it would prevent them from arranging for the exchange of products between third country markets. These are regular activities of foreign export trading companies and the inability of U.S. export trading companies to undertake them would severely limit their competitiveness and, therefore, their ability over the long term to export U.S. goods and services.

ECAT recommends that language be adopted that export trading companies be organized and operated primarily -- rather than exclusively -- for purposes of exporting goods and services produced in the United States. It can be clarified in report language that fully one-half of an export trading company's business must be related to the export of U.S. goods and services or that a trading company be a "net exporter." Such formulations would accomodate the goal of increasing exports with the expected complex trading relationships of export trading companies.

4. Product Modification.

Minor product modification by an export trading company may be necessary either for conforming a product to the requirements of a foreign market or for the packaging, shipping, transporting or other movement of the product. These activities clearly should be permitted under the legislation, and ECAT would support appropriate report language on the matter.

5. Limitation on Investment.

Limiting investment in an export trading company to five percent of a bank holding company's capital and surplus may prove to be too restrictive. ECAT supports a higher ceiling for bank holding companies and, in the event the Committee approves bank participation in export trading companies, for banks themselves.

6. Taking Title to Goods.

ECAT believes that taking title to goods is allowed for under H.R.6016. Were export trading companies unable to take title to goods, their ability to provide export assistance to U.S. firms would be severely circumscribed. ECAT members support a clarification in the Committee report to the effect that taking title to goods is a permissible activity.

7. Section 23(A).

ECAT members do not believe that loans by a bank holding company or an Edge Act Corporation to an export trading company should be regulated under Section 23(A) of the Federal Reserve Act which was designed basically for other purposes. We would prefer to see a separate, specific limit placed on the loan exposure of bank holding companies and Edge Act Corporations to export trading companies.

8. Federal Reserve Board Approval.

Under H.R.6016, all investments of bank holding companies and Edge Act Corporations in export trading companies are subject to prior approval by the Board of Governors of the Federal Reserve System. ECAT members

would find preferable the establishment of some sort of ceiling, with only investments above the ceiling subject to Federal Reserve approval. This would partially focus the oversight activities of the Federal Reserve on the more substantial investments of bank holding companies and Edge Act Corporations in export trading companies. A precedent for this approach exists in that certain limited investments of an Edge Act Corporation in companies established to engage in international banking do not require Federal Reserve approval.

9. Provision of Services.

ECAT would like to see export trading companies be able to offer the greatest variety possible of export-related services, including insurance. In this manner, export trading companies would truly become "one-stop" service centers for exports. For this reason, ECAT supports a nonlimiting definition in H.R.6016 of the term "export trade services." This would ensure that the list of export trade services in the bill is construed as illustrative.

10. Participation of Nonprofit Organizations.

If their state charters permit them, public entities, such as port authorities and development agencies, could establish export trading companies. However, H.R.6016 does not expressly indicate that nonprofit organizations are eligible for export trading company status. ECAT members support an amendment to H.R.6016 to indicate the eligibility of public entities for export trading company status.

11. Role of the Federal Reserve Board.

ECAT members would hope that the Federal Reserve Board in setting guidelines for investments in export trading companies designed to guard against undue risk would also, as you, Mr. Chairman, expressed in introducing the Bank Export Services Act, balance this concern with the "national need to expand ... trade possibilities." We believe that some procedure should be established to evaluate the performance of the Board in achieving the dual intent of Congress.

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Again, ECAT appreciates this opportunity to address itself to the subject of export trading company legislation and commends the Chairman and the Members of the Committee for the careful and thoughtful approach they are taking to the legislation. I would be pleased to answer any questions you may have.

Chairman ST GERMAIN. I will just make one observation. Would you tell ECAT that we sort of know which purpose 23(A) was designed for? I mean, to tell us it was not designed for this I think is a bit of a mistake. We know.

Now we will hear from Mr. Edwards.

STATEMENT OF MICHAEL D. EDWARDS, SUPERVISOR OF BANKING FOR THE STATE OF WASHINGTON AND PRESIDENT, CONFERENCE OF STATE BANK SUPERVISORS

Mr. EDWARDS. Mr. Chairman, members of the committee, I am Michael D. Edwards, supervisor of banking for the State of Washington and president of the Conference of State Bank Supervisors. I wish to clarify that I am here testifying on behalf of the conference and not on behalf of the State, the administration of which has not assumed a position in this matter at this time.

The Conference of State Bank Supervisors, CSBS, is the professional organization of State officials who charter, regulate, and supervise the approximately 10,500 State-chartered commercial and savings banks of the Nation.

H.R. 6016, the Bank Export Services Act, would authorize bank holding companies and Edge Act investments in export trade companies and would broaden the Federal Reserve Board's authority over nonmember banks which utilize bankers' acceptances as a means of financing trade.

In doing so, H.R. 6016 raises serious questions with regard to two national policies of great importance and of great interest to CSBS:

1. CSBS believes that the principle of the separation of banking and commerce, a cornerstone of our policy against undue concentration of economic power, should not be abandoned without proven necessity to do so.

2. CSBS believes that State authority under the dual banking system, this Nation's major safeguard against centralization of control and regulation of financial intermediaries, must be protected and reinforced in every action taken by its major architect, the Congress of the United States.

Because of both our deep and abiding concern regarding the mixing of banking and commerce and our role as major defender of the dual banking system, CSBS is constrained to express serious objections to H.R. 6016 in its current form.

CSBS supports Congress in its efforts to increase U.S. exports, but must ask that this committee carefully weigh the potential harm flowing from the mixing of commerce and banking contemplated herein.

The potential economic benefit flowing from increased investment in the operation of export trading companies is obvious. Continued increases in our national trade deficit cannot be tolerated. CSBS believes that increased trading company activity can enhance American competitiveness abroad by offering an opportunity to many potential exporters who have been unable to enter foreign markets because of the high initial cost. From increased export activity will flow other more general economic benefits, including new jobs and increased tax revenues.

The export trading companies provisions of H.R. 6016 can be of great benefit to the general well-being of the Nation.

However, CSBS shares with Congress a deep and abiding commitment to the principle of the separation of banking and commerce.

The Banking Act of 1933, embodied the policy that depository banking activities were to be separate from other forms of commerce. It was put into place largely in response to industry conditions which prevailed in the late 1920's and early 1930's.

Causes for the separation of commercial and banking activities did seem compelling in 1933. Concerns about the insolvency of banks led to proposals for strengthening the capital of banks, for closer and stronger supervision, for more careful restriction of investments, for new requirements for the valuation of assets, and for protection of depositors through a deposit insurance program. All of these concerns and proposals argued for less, not more, risk acceptance by banks.

The Bank Holding Company Act of 1956, as amended, reinforced the principle of the separation of banking and commerce by providing a control mechanism to allow limited mixing while assuring the safety and soundness of the banking industry. By providing that BHC's could hold the shares of firms whose activities are closely related and a proper incident to banking, Congress opened the door, on a limited basis, to bank participation in other fiduciary or financial activities. I know many of the Members have already expressed their concern in that regard. This fact places CSBS policy against increased mixing of commerce and banking hand in hand with CSBS policy against undue concentration of economic resources and undue concentration of regulatory power.

At the heart of the dual banking system is the longstanding and valuable American policy against undue concentration of control of financial resources. Congress traditionally has sought to allow local authority, both ownership and regulatory, over financial resources, recognizing that concentration and centralization accompany one another and that an economy controlled centrally by government or powerful private bodies may create, rather than resolve economic problems.

State authority under the dual banking system is this Nation's major safeguard against centralization of control and regulation of financial intermediaries, and is a unique solution to the problem of the concentration of financial resources experienced by many foreign competitors. For this reason, it is important that the House adopt language, as was done by the Senate, to indicate that nothing in the Export Services Act is intended in any way to derogate State authority over State-chartered institutions and under other Federal statutes, including section 7 of the Bank Holding Company Act of 1956.

Clearly, there are dangers inherent in the mixing of commerce and banking.

Therefore, we are left to balance between the competing national goals of the separation of commerce and banking and enhancing the general welfare through increased export activities.

CSBS believes that the export trading company provisions of H.R. 6016 has come close to optimally striking that balance.

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When the Senate considered its companion bill, S. 734, the Export Trading Act, CSBS urged support for the Proxmire amendment to limit control of export trading companies to bank holding companies, Edge Act corporations, and bankers' banks. We continue to support limiting bank equity participation in ETC's on a direct basis.

H.R. 6016, however, has overlooked the potential for participation of small banks, with neither Edge Act corporations nor holding companies. CSBS believes that the bill should be amended to allow these banks to invest indirectly in ETC's through bankers' banks. By giving bankers' banks the same privilege extended BHC's, you would increase the number of potential participants without increased risk attendant the mixing of commerce and banking.

The objective of the bill is to increase the number of firms, especially small- and medium-sized firms, involved in exporting. Small- and medium-sized firms are most likely to have their banking relationship already established with local banks willing to finance their—relatively—small corporate sales. These firms' potential for exporting will go undeveloped if the ETC's can only operate through holding companies or Edge Act corporations whose banking affiliate has no working relationships with small business.

On balance, CSBS believes that by limiting equity participation in export trading companies to bank holding companies, Edge Act corporations, and bankers' banks, Congress can maximize participation without creating either undue risks to institutional safety and soundness or undue risks of industry concentration.

CSBS strongly opposes extension of the Federal Reserve Act's limitations on member banks' eligible bankers' acceptances to nonmember depository institutions.

CSBS is not opposed to legislation which would increase or eliminate the Federal Reserve Act's amount limitations on member banks' eligible acceptances. Section 3 of H.R. 6016 would amend section 13(7) of the Federal Reserve Act to increase the aggregate limitation on member banks' eligible bankers' acceptances which are outstanding at any one time to 150 percent of capital stock and surplus—which could be increased to 200 percent with FRB permission.

However, ostensibly for monetary policy and related competitive equity reasons, section 3 of H.R. 6016 would extend these same limitations to nonmember depository institutions.

The provisions of section 13(7) of the Federal Reserve Act are concerned, however, not with reserve requirements and monetary policy, but rather with supervisory limitations applicable to banks which have elected to become members of the Federal Reserve System.

I know you did not want a refresher on that, but we just wanted to highlight that one point, Mr. Chairman.

As you know, under the laws establishing the dual banking system, depository institutions are free to elect either State or Federal chartering and primary supervision, and free to choose whether to become members of the Federal Reserve System. At the time of enactment of the Monetary Control Act of 1980 and universal reserves, our member State supervisors were concerned with the im-

plications of universal Federal reserves for the continuing vitality of the dual banking system. While a system of universal Federal reserves was ultimately enacted as the preferred solution to the problem of declining bank deposits subject to Federal reserves, mandatory membership in the Federal Reserve System and extension of FRB's supervisory authority to nonmember depository institutions were expressly rejected.

Similarly, in 1978 when Congress enacted the International Banking Act, it rejected FRB's requested authority to apply section 13(7) and other member bank supervisory limitations to State- licensed agencies and branches of foreign banks, and instead enacted section 7 of the IBA, which limited FRB authority over such State-licensed offices to reserve requirement authority only.

Thus Congress has twice already determined that provisions of the Federal Reserve Act which are concerned with the FRB's supervisory authority, including section 13(7), should not be extended to nonmember depository institutions along with Federal Reserve requirements.

Chairman ST GERMAIN. Do you think you might summarize the balance, because you are running over.

Mr. EDWARDS. Yes, sir. I think the essence of what we would like you to consider is the need to avoid an infringement in the area of the Federal Reserve bank's control over nonmembers bankers' acceptance activities. Really the very heart of the dual banking system is that we do have the federally chartered and State-chartered systems that are competitive. It is still inherent in the system that we provide for the competitive mechanism without restraints creating control by the Federal Reserve in the area of bankers' acceptance levels.

With that I will conclude and state I will be happy to try to answer any questions you may have later.

Chairman ST GERMAIN. Thank you.

[Mr. Edwards' prepared statement, on behalf of the Conference of State Bank Supervisors, follows:]

STATEMENT OF MICHAEL D. EDWARDS

Mr. Chairman, members of the Subcommittee, I am Michael D. Edwards, Supervisor of Banking for the State of Washington and President of the Conference of State Bank Supervisors, on whose behalf I am testifying today.

The Conference of State Bank Supervisors (CSBS) is the professional organization of state officials who charter, regulate and supervise the approximately 10,500 state-chartered commercial and savings banks of the nation. Created in the early 20th Century as a clearing house for the ideas of the state bank supervisors on common problems, CSBS has evolved into the major champion of our decentralized American banking and bank regulatory structures. In addition, the Conference has become the most significant single source of educational and research services aimed at strengthening individual state banking departments.

The Conference is interested in any matter which has a direct bearing on the safety and soundness of the banking system as a whole, credit availability and bank performance in meeting public needs, and the maintenance of a viable, decentralized dual banking system.

H.R. 6016, the Bank Export Services Act, would authorize bank holding company and Edge Act investments in export trade companies and would broaden the Federal Reserve Board's authority over non-member banks which utilize bankers acceptances as a means of financing trade.

In doing so, H.R. 6016 raises serious questions with regard to two national policies of great importance and of great interest to CSBS:

1. CSBS believes that the principle of the separation of banking and commerce, a cornerstone of our policy against undue

concentration of economic power, should not be abandoned without proven necessity to do so.

2. CSBS believes that state authority under the dual banking system, this nation's major safeguard against centralization of control and regulation of financial intermediaries, must be protected and reinforced in every action taken by its major architect, the Congress of the United States.

Because of both our deep and abiding concern regarding the mixing of banking and commerce and our role as major defender of the dual banking system, CSBS is constrained to express serious objections to H.R. 6016 in its current form.

Investment in Export Trading Companies

CSBS supports Congress in its efforts to increase U.S. exports, but must ask that this committee carefully weigh the potential benefit flowing from the bill's enactment against the potential harm flowing from the mixing of commerce and banking contemplated herein.

The potential economic benefit flowing from increased investment in the operation of export trading companies is obvious. Continued increases in our national trade deficit cannot be tolerated. CSBS believes that increased trading company activity can enhance American competitiveness abroad by offering an opportunity to many potential exporters who have been unable to enter foreign markets because of the high initial cost. From increased export activity will flow other more general economic benefits, including new jobs and increased tax revenues.

The Export Trading Companies provisions of H.R. 6016 can be of great benefit to the general well-being of the nation. Concern

with the general welfare of the nation is, of course, shared by the governments of the fifty states and you, our representatives in the Federal government.

However, CSBS shares with Congress a deep and abiding commitment to the principle of the separation of banking and commerce.

The Banking Act of 1933 embodied the policy that depository banking activities were to be separate from other forms of commerce. It was put into place largely in response to industry conditions which prevailed in the late 1920s and early 1930s.

Causes for the separation of commercial and banking activities did seem compelling in 1933. Concerns about the insolvency of banks led to proposals for strengthening the capital of banks, for closer and stronger supervision, for more careful restriction of investments, for new requirements for the valuation of assets and for protection of depositors through a deposit insurance program. All of these concerns and proposals argued for less, not more, risk acceptance by banks.

The Bank Holding Company Act of 1956, as amended, reinforced the principle of the separation of banking and commerce by providing a control mechanism to allow limited mixing while assuring the safety and soundness of the banking industry. By providing that BHCs could hold the shares of firms whose activities are closely related and a proper incident to banking, Congress opened the door, on a limited basis, to bank participation in other fiduciary or financial activities.

Because of depository institutions' unique place in the economy, bank equity in nonbanking enterprises presents a very real danger of credit allocation. This fact places CSBS policy against

increased mixing of commerce and banking "hand-in-hand" with CSBS policy against undue concentration of economic resources and undue concentration of regulatory power.

At the heart of the dual banking system is the long-standing and valuable American policy against undue concentration of control of financial resources. Congress traditionally has sought to allow local authority, both ownership and regulatory, over financial resources, recognizing that concentration and centralization accompany one another and that an economy controlled centrally by government or powerful private bodies may create rather than resolve economic problems. The evils which attend concentration of ownership and regulation--burdensome regulation and market control by a small group of individuals or organizations--are the enemies of productivity and freedom.

State authority under the dual banking system is this nation's major safeguard against centralization of control and regulation of financial intermediaries and is a unique solution to the problem of the concentration of financial resources experienced by many foreign competitors. For this reason, it is important that the House adopt language, as was done by the Senate, to indicate that nothing in the Export Services Act is intended in any way to derrogate state authority over state-chartered institutions and under other Federal statutes, including Section 7 of the Bank Holding Company Act of 1956.

Clearly there are dangers inherent in the mixing of commerce and banking.

Therefore, we are left to balance between the competing national goals of the separation of commerce and banking and enhancing

the general welfare through increased export activities.

CSBS believes that the export trading company provisions of H.R. 6016 has come close to optimally striking that balance.

When the Senate considered its companion bill, S. 734, the "Export Trading Act," CSBS urged support for the Proxmire Amendment to limit control of export trading companies to bank holding companies, Edge Act Corporations and bankers' banks. We continue to support limiting bank equity participation in ETCs on a direct basis.

H.R. 6016, however, has overlooked the potential for participation of small banks, with neither Edge Act Corporations nor holding companies. CSBS believes that the bill should be amended to allow these banks to invest indirectly in ETCs through bankers' banks. By giving bankers' banks the same privilege extended BHCs, you would increase the number of potential participants without increased risk attendant the mixing of commerce and banking.

The objective of the bill is to increase the number of firms, especially small and medium sized firms, involved in exporting. Small and medium sized firms are most likely to have their banking relationship already established with local banks willing to finance their (relatively) small corporate sales. These firms' potential for exporting will go undeveloped if the ETC's can only operate through holding companies or Edge Act Corporations whose banking affiliate has no working relationships with small business.

On balance, CSBS believes that by limiting equity participation in Export Trading Companies to bank holding companies, Edge Act Corporations and bankers' banks Congress can maximize participation without creating either undue risks to institutional safety

and soundness or undue risks of industry concentration.

Bankers Acceptances

CSBS strongly opposes extension of the Federal Reserve Act's limitations on member banks' eligible bankers' acceptances to nonmember depository institutions.

CSBS is not opposed to legislation which would increase or eliminate the Federal Reserve Act's amount limitations on member banks' eligible acceptances. Section 3 of H.R. 6016 would amend Section 13(7) of the Federal Reserve Act to increase the aggregate limitation on member banks' eligible bankers' acceptances which are outstanding at any one time to 150 percent of capital stock and surplus (which could be increased to 200 percent with FRB permission).

However, ostensibly for monetary policy and related competitive equity reasons, Section 3 of H.R. 6016 would extend these same limitations to nonmember depository institutions.

The provisions of Section 13(7) of the Federal Reserve Act are concerned, however, not with reserve requirements and monetary policy but rather with supervisory limitations applicable to banks which have elected to become members of the Federal Reserve System.

As you know, under the laws establishing the dual banking system depository institutions are free to elect either state or federal chartering and primary supervision and free to choose whether to become members of the Federal Reserve System. At the time of enactment of the Monetary Control Act of 1980 and universal reserves, our member state supervisors were concerned with the implications of universal federal reserves for the continuing vitality of the dual banking system. While a system of universal federal reserves

was ultimately enacted as the preferred solution to the problem of declining bank deposits subject to federal reserves, mandatory membership in the Federal Reserve System and extension of FRB's supervisory authority to nonmember depository institutions were expressly rejected.

Similarly, in 1978 when Congress enacted the International Banking Act, it rejected FRB's requested authority to apply Section 13(7) and other member bank supervisory limitations to state-licensed agencies and branches of foreign banks, and instead enacted Section 7 of the IBA, which limited FRB authority over such state-licensed offices to reserve requirement authority only.

Thus Congress has twice already determined that provisions of the Federal Reserve Act which are concerned with the FRB's supervisory authority, including Section 13(7), should not be extended to nonmember depository institutions along with federal reserve requirements. We therefore believe that the proposed extension of Section 13(7) of the Federal Reserve Act to nonmember depository institutions is clearly inconsistent with the well-established view of Congress that the dual banking system already adequately assures effective supervision of state-chartered and state-licensed banking operations, and need not be eroded solely on account of the extension of federal reserve requirements to nonmember depository institutions.

That the principal result, as well as the underlying purpose, of an extension of Section 13(7)'s provisions would be to extend FRB's direct supervisory jurisdiction over nonmember depository institutions is evidenced by the following language of Chairman Volcker's letter to Representative Barnard dated March 17, 1981:

> ...We believe that it is important to retain the present requirement that Board permission be obtained by institutions desiring to issue acceptances up to the higher limit in order to preserve the confidence of market participants. Therefore, the Federal Reserve should be authorized to prescribe certain standards, including minimum capital requirements, general condition, and level of exposure to risk that an institution must meet in order to issue eligible acceptances up to the proposed 200 percent maximum. Of course, any legislation on this issue should not restrict the ability of the Board to impose revenue requirements on eligible acceptances at some future time if the needs of monetary policy required it. ... (Emphasis added.)

The language of proposed Section 13(7)(C) of the Federal Reserve Act, contained in the provisions of Section 3 of H.R. 6016, would give FRB the supervisory authority over nonmembers that it has requested. The supervisory nature of the proposed extension of Section 13(7) to nonmembers is also demonstrated by the provisions of proposed Sections 13(7)(D) and (E), which would impose on member and nonmember depository institutions alike prudential or supervisory limits on domestic trade acceptances and acceptances for any one customer, respectively. Clearly, these limitations have no relationship whatsoever to FRB's responsibility for the implementation of monetary policy, and would serve only to extend member bank supervisory limitations to nonmember depository institutions.

CSBS is unaware of any evidence that member banks are in fact competitively disadvantaged in the acceptance marketplace relative to nonmember depository institutions, including state-licensed agencies and branches of foreign banks, as a result of their supervisory limitations under Section 13(7) of the Federal Reserve Act. However, even if the supervisory limitations applicable to member banks under Section 13(7) of the Federal Reserve Act, or any other provision of federal law, did place member banks at a competitive

disadvantage relative to nonmember depository institutions, this result could not, in our view, justify extending the relevant member bank supervisory restrictions to nonmembers. Such differences in supervisory or prudential limitations are inherent in the dual banking system, which divides authority for depository institution supervision between federal and state bank regulatory authorities.

We also note that the permissive language of proposed Section 13(7)(A) of the Federal Reserve Act, which would purport to authorize state nonmember depository institutions, along with member banks, to accept certain types of drafts, would imply that state nonmember institutions would be foreclosed by federal law from accepting other types of drafts, without regard to their powers under applicable state law and regulations. This implication is another reason why Section 3 of H.R. 6016 is of serious concern to CSBS and its members, who believe that banking powers of state-chartered and state-licensed nonmember depository institutions should not be governed by provisions contained in the Federal Reserve Act.

For these reasons, CSBS strongly opposes FRB's suggested extension of Section 13(7) of the Federal Reserve Act to nonmember depository institutions, including U.S. offices of foreign banks, and urges that legislative amendments to this Section, if any, be confined to revisions affecting its application to member banks.

With regard to U.S. offices of foreign banks, we note that the Board believes "that the appropriate measure of capital is the worldwide capital of the parent foreign bank." CSBS believes that definition to be more appropriate than other approaches that could have been taken and applauds the Board for that decision.

However, even that decision does not change the fact that in a

bill dedicated to removing regulatory bars to trade, the Federal Reserve, in the guise of monetary policy, would extend its regulatory authority in yet another area. Further, the Fed in its testimony asked you to give it additional authority to limit use of participation agreements which encourage trade. Such unjustifiable extensions of authority ought to be rejected, especially in the context in which they appear before you.

Summary and Conclusions

CSBS respectfully asks that this Committee do the following:

1. Amend the provisions of Section 3 of H.R. 6016, pertaining to Bankers Acceptances, to limit the ceilings contained herein and the Federal Reserve Board authority attendant thereto to member banks only.

2. Amend the provisions of Section 2 of H.R. 6016, pertaining to investments in Export Trading Companies, to allow smaller banks to invest indirectly in Export Trading Companies through bankers' banks.

3. Clarify by amendment or committee report language that nothing in H.R. 6016 is intended to override existing state authority over state-chartered institutions and under other Federal statutes, particularly the Bank Holding Company Act of 1956.

With these three relatively minor adjustments, CSBS will be able to support H.R. 6016 without serious reservation.

Thank you, Mr. Chairman.

Chairman ST GERMAIN. We will hear from Mr. Schaffer. I might state that your friend and former schoolmate would like to have been here to greet you, but he is otherwise occupied.

We will put the entire statement in the record.

STATEMENT OF JOHN A. SCHAFFER, PRESIDENT, AMERICAN WORLDWIDE TRADE CO., INC.

Mr. SCHAFFER. I am John Schaffer, the president of the American Worldwide Trade Co., an export management company incorporated in the District of Columbia. I would like to thank you and the members of the subcommittee for the opportunity to testify today. I will summarize my statement orally.

I totally agree with you in your comments on the floor of the House when you introduced this bill on March 31, 1982. I am of the opinion that the United States is not a trading Nation. We have long looked at the domestic market, but we need to get out into the world market, and when we do, we will be bumping up against stiff competition.

I am sure the subcommittee has heard already about the Japanese Shosha, the nine large trading companies and 8,000 specialized trading companies that have tied up a large portion of the world trade. Two, Mitsubishi and Mitsui, are the world's fourth and fifth largest companies. These companies are involved in real estate, mining, manufacturing, and other activities, but most importantly, they have access to financing. The Mitsui Bank takes care of Mitsui companies.

No one is asking for Congress to permit these type companies to be organized in the United States, but something needs to be done. We are losing a great percentage of world trade every year. The situation for a small company like mine is like playing a football game where the other team has 11 players and we have three, and we don't get to huddle. We need to do something like this Trading Act as soon as possible.

Whether or not my company will benefit, I believe that this is in the best interests of America. My company was organized 2 years ago. Since I was a sinologist in the Army for many years, I have concentrated on United States-China trade, although I now have distributorships in 45 countries around the world.

At any rate, what I have found in my correspondence with these customers and distributors around the world, is first, that there are people who are interested in buying American products, and second, there are U.S. manufacturers who want to sell their products overseas. I get letters every week from companies that want me to export their products.

Third, I found that there are many people who want to get into exporting. The Department of Commerce lists hundreds of export management companies, there are 6 in D.C., 11 in Maryland and 16 in Virginia, but this is only the tip of the iceberg. There are thousands of individuals, first-generation Americans, who have relatives in the old country and they are trying to get trade started. We have a fragmented effort of trade in this country.

What I like about the bill is the fact that banks can invest in trading companies. My statement entered for the record has plenty

of examples of how being undercapitalized has hurt me from market research to posting performance bonds, and in not having an adequate staff to handle all the trade that I could actually be carrying out.

What I don't like about the bill or at least what I don't understand, are seemingly minor points.

First, the bill says that a bank cannot have a similar name to a trading company. Does this mean that the American Security Bank in Washington, if they wanted to invest in my company, could not, because I am the American Worldwide Trade Co., and we have the word American in the title?

Second, you have heard objections before, and I will repeat mine, to the effect that you are restricting trade companies from manufacturing, and I think that this would be a problem for the foreign trade zone. We have now 70 authorized foreign trade zones in the United States. The State of Maryland has three under development, and Virginia would like to have one at Dulles. One imports parts into the foreign trade zone and manufactures something for reexport. I would not tie an export trading company's hands by saying they cannot manufacture.

Third, Small banks should also be authorized to invest in and own trading companies. I go along with that point.

Fourth, Mr. Chairman, I would recommend that this law have the Federal Government find in favor of banks and trading companies wherever in doubt. Rather than spending so much time on how you can restrict them, you should instead write this bill to release the potential that we have for increasing our trade. Too often we find the Federal Government being overzealous in carrying out some of the laws, such as the antiboycott law today and hurting U.S. trade, rather than helping it.

Mr. Chairman, I think that this is an important piece of legislation. I commend you and the members of this committee for guiding it through Congress and I look forward to its enactment. I thank you for the opportunity to testify.

[Mr. Schaffer's prepared statement follows:]

STATEMENT OF JOHN A. SCHAFFER

OPENING STATEMENT

Mr. Chairman, I would first like to thank you and the members of this Committee for allowing me to testify concerning the Export Trading Company Act of 1982. I commend this Committee and the two other House Committees for their efforts in bringing this vital piece of legislation to fruition. I totally agree with your statements when you introduced this bill on the floor of the House of Representatives on 31 March 1982. You are correct in saying that "...growth in our economy now depends on a major shift from reliance on domestic sales to a mix of domestic and foreign sales efforts."

It is my opinion, Mr. Chairman, that the United States is not a trading nation. We have looked inward to our domestic markets for most of our history. In other countries governments and industry are colluding, working hand in hand, to win trade for their native companies. Japan is the classic example where the pre-World War II Zaibatsu was loosely restructured after our Occupation Forces withdrew, into what is now called Shosa -- nine huge trading companies and 8000 specialized smaller trading companies.

Professor Akira Kubota, Professor of Political Science at the University of Windsor, in Canada, prepared in August 1981, an excellent article on the Shosa. He noted that two of these, Mitsubishi and Mitsui, are the 4th and 5th largest companies in the world after Exxon, General Motors and Shell, in that order. Mitsubishi employs 17,000 persons -- 2,800 non-Japanese, has 150 branches throughout the world, handles 25,000 items from instant noodles to guided missiles. They process 50,000 telexs daily, 70,000 phone calls, and 40,000 letters. They are involved in mining, manufacturing, shipping, oil refineries, textiles, shipbuilding, real estate, warehousing, insurance, and many others. But most importantly, they have easy access to bank financing. The Mitsui Bank still takes care of Mitsui companies as they did under the days of the Zaibatsu. These giant trading companies not only export Japanese products, but they are involved in third nation trade. In fact, one Congressman said at one of your hearings last month that Mitsui was the 6th largest exporter in the United States. That just "floors" me. I should be the sixth largest exporter in America, not some Japanese company.

No one is asking Congress yet for Shosa type companies. But something bold needs to be done. It is like playing a football game where our opponent has 11 players and we have 3 and no huddle allowed on our side. Yet this Committee seems to be struggling with language on what appears to be unimportant matters, when the main objective is to make our trading companies, yes our entire trading system, able to compete in the world's markets. In the 1980's, we will be faced with even greater competition from trading companies in Korea, Singapore and Brazil. Bump this up against the current downward trend of America's portion of the world's trade. Our portion has declined in the past few years from 15 percent to 12 percent.

I think, Mr. Chairman, that Congress should be ready for more pressure from the American people and the business community for even greater allowances in the anti-trust, bank participation and other areas to increase U.S. exporting in the next few years. Otherwise we will continue to be $30-40 billion in the red each year as we have since the oil price increases of the mid-1970's which, in my opinion, is the blame for much of our economic woes today.

Whether or not my small company profits from this bill, I believe its enactment is in the best interest of America. A trading company cannot expand rapidly unless it has access to easy financing. Banks must be allowed to invest in trading companies, and we must be given freedom from anti-trust actions if we are to become strong enough to confront the Japanese trading companies.

Mr. Chairman, I would like to cite some specific examples of how my company is restricted by lack of proper capitalization.

First, let me give you some background. In February 1980, I completed 21½ years as a regular Army officer. I was a China specialist and speak Chinese Mandarin. I served eight years in the Far East including two Vietnam tours and served seven years in the Pentagon as a staff officer and analyst. In March 1980, I organized the American Worldwide Trade Company (AWT), incorporated in the District of Columbia as an Export Management Company (EMC). Basically what an EMC does is help small and medium sized American manufacturers sell their products overseas.

I had planned originally to be diversified in products and ultimately concentrate on U.S.-China trade. I have, however, like most EMC's concentrated on certain product lines -- weather satellite communications equipment, paper products and security equipment. While AWT has worked with the Chinese on three or four occasions and is now involved in negotiations to sell spare parts to China, we actually have become diversified geographically, with customers/ distributors in over 45 countries in every area of the world. I have found that around the world people want to buy American products.

Trade leads can be obtained from the Department of Commerce, State Economic Development offices and private organizations like Sell Overseas America, established a couple of years ago by the President's daughter, Maureen Reagan. That organization has been responsible for about a third of my overseas contacts, many of whom wrote to AWT on their own initiative after learning about me from Sell Overseas America.

The Department of Commerce (DOC) lists several hundred EMC's in the U.S. They list seven in the District of Columbia, eleven in Maryland, and sixteen in Virginia. But the DOC list is deceiving. There are hundreds of individuals in this area alone, many first generation Americans, or foreigners living here, who are attempting to establish trade through relatives in their old country. What we have is a highly fragmented effort of people sending price quotes overseas.

Meanwhile, I concurrently serve as the editor of the newsletters for the area's two international trade associations, the International Trade Association of Northern Virginia and the Suburban Maryland International Trade Association. In that capacity, I have been able to accomplish some market research, and also I have encountered numerous individuals and companies wanting to become involved in exporting.

Where we hurt due to under capitalization, other than in just meeting routine administrative and operational costs, are in the following areas:

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First, market research. The Japanese have been sending delegations to China for the past 20 years. Their people are in every corner of that country gaining market intelligence, just as they have done for many years here in the United States. In Southwestern, and somewhat remote Yunnan Province, they have 30 marketing representatives on a sustained basis. No wonder Japanese trade with China is over three times our own. The British and others are doing this too -- preparing reports for their businesses back home. We need the kind of trading company here that sends experts to obtain market intelligence. It is one thing for our commercial attaches or the World Bank to make country studies. These are objective and honestly prepared, but there is no urgency to them because there is no profit motive. If I send researchers to a country, I tell them "find out what you can in light of how can we make money. While you research, you also negotiate."

Second, I lack capital to put forth bid bonds and performance bonds. A case in point: At the present time I have a quote for about $150,000 worth of paper products under consideration by the Government of Kuwait. A mill in Delaware which manufactures this particular product, but has done little exporting, has agreed to be my supplier. If I should win this bid, there is a requirement for a 10 percent performance bond. This is not much money, just $15,000, but where to find it? The mill won't obligate it, they're not used to doing business that way. Venture capital is available if it's $1.5 million, not $15,000. My bank would give a personal loan of $6,000. I could take a second mortgage on my house. But is this any way to do business? I think I have found a way to handle this particular case, but how much easier it would be to have the financial backing there when I need it.

In a similar case, late last year I received an inquiry from Chile for about $150,000 worth of goods manufactured by a factory in Baltimore that I represent. The problem was they wanted me to carry them for 180 days. I cannot and the factory cannot, but banks can handle that sort of thing through discounted letters of credit. How much easier it would be to have a bank taking care of these matters as soon as they come up.

Third, the large Japanese companies underbid me -- I recently received a letter from Singapore stating that the Japanese spot price for newsprint was far less than the quote I provided.

Finally, AWT is just too small, I lack funds to hire an adequate staff. While I can handle quite a few actions simultaneously, I am becoming super-saturated in possible trade deals. I get resumes all the time and have a couple of people working for me part time on a commission basis. One works for me on the two days a month she is furloughed from her U.S. government job.

So what I am saying is that the ingredients are here. Overseas customers want to buy U.S. products. American manufacturers are willing to sell. A growing body of Americans want to work to export our products overseas. Adequate capitalization would bring it all together.

Mr. Chairman, what I like about this bill, it allows banks to invest in trading companies, thereby providing the capital to compete against foreign trade companies in the world market. Also, I like the idea of lifting anti-trust prohibitions for overseas sales.

Mr. Chairman, what I do not like about this bill, or at least do not understand, are some minor clauses that seem to be causing the Committee some difficulty:

First, on page 4, line 11, "a trading company shall not have a similar name to the bank holding company." Well, I ask, what difference does that make? If the American Security Bank wanted to invest in the American Worldwide Trade Company, Inc., does that mean they could not because we both had the word "American" in our names? I recommend you drop that clause from the bill.

A second objection -- on page 7, line 5, "an export trading company may not engage in manufacturing of agricultural production activities." Again, I question that. For one thing, according to Mr. John DaPonte of the Commerce Department's Foreign Trade Zone Board, when he spoke to our Suburban Maryland International Trade Association this past February, there are 70 approved Foreign Trade Zones in the United States, up from only 10 in the early 1970's. Forty-five of these are now operational. Maryland is developing three trade zones now -- in Prince George's County, at BWI airport, and at Ft. Holabird in Baltimore. Northern Virginians plan to ask for one at Dulles at some future time. Anyway, one of the reasons for an FTZ is to allow manufacturing on imports for which no customs were paid. The newly manufactured product would then be re-exported or sold in the U.S. with customs paid at that time. To be a full-fledged trading company, we cannot be restricted from manufacturing activities. Therefore, I recommend you drop that clause also.

A third point -- I recommend that language be added in the bill to allow non-bank holding company banks to participate in ETC financing, Here again, I would say why not? I believe this new system should be given as wide a latitude for success as possible. A medium sized commercial bank might ideally have the ability to support a trading company.

Finally, I recommend that in the enforcement of this law by the Federal Government, that the government be enjoined by this bill to make every effort to resolve borderline problems in favor of the trading companies and banks involved. Too often, an overzealous bureaucracy negates a perfectly good law passed by Congress. One such example is the Commerce Department's present enforcement of the Anti-Boycott Law.

President Reagan issued a proclamation making last week "Small Business Week of 1982." He said "Small business is the cornerstone of our free enterprise system." He said "...our goal is to usher in a new era of growth for small businesses." This bill is an important first step in helping the growth of small U.S. businesses engaged in international trade. I urge its passage as soon as possible.

Thank you once again, Mr. Chairman, and members of this Committee for the opportunity to testify here today.

Chairman ST GERMAIN. Thank you, Mr. Schaffer.

At this point, we are going to proceed out of order, because of the delay in the hearing. One of our colleagues who is scheduled to testify, if you gentlemen don't mind, we are going to allow him to slip in at this point in time.

We are delighted to have from the State of Washington our colleague, Representative Bonker.

STATEMENT OF HON. DON BONKER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. BONKER. Thank you, Mr. Chairman.

I apologize to the panel for the interruption. I appreciate your efforts to squeeze me in to offer comments on the legislation. I wanted the opportunity to thank you publicly for all the work that you and your committee are doing to improve this legislation and expedite its passage.

The House is currently debating the Federal budget, but I don't feel that we are going to experience economic recovery until we achieve our full potential on the international market.

We are in a competitive world economy and if we don't find our place and enhance our export potential, I think we are going to experience economic consequences at home.

The Department of Commerce, in testimony before this committee has indicated that ETC's could increase jobs in the United States somewhere between 360,000 and 600,000. More importantly, it will help to facilitate the smaller and medium-sized firms to get into the export market.

The Subcommittee on International and Economic Policy has marked up a bill that I have sponsored and have incorporated suggested language, Mr. Chairman, from you, which we think greatly improves the banking section of the legislation. We very much appreciate the important line between a bank's depository functions and its commercial activity. The Senate, in its haste to draft and pass legislation, failed to appreciate that line.

Requiring banks participation as equity owners through holding companies or Edge Act corporations allows that management entity to work its will and keep the safeguards pretty much intact.

So we feel that is a necessary change to be making in the Senate language. Also, we feel the safeguards that are incorporated in your language are sufficient, and certainly will protect depositors of the major institutions who may participate in the formation of export trading companies.

Another improvement is the requirement that we only involve one Federal agency, the Federal Reserve Board, in monitoring and perhaps approving banks' involvement and participation in trading companies.

I have been talking about this issue for several years in my area, in the Northwest, and I find that banks are typically conservative or cautious about approaching export trading companies, and this could well mean that the big money center banks might preempt their involvement. I believe in our area we have a good opportunity, because of our proximity to the Pacific Rim and because of the

vast resources and port facilities that we have, for regional banks could be an important part of the trade picture.

So I would hope that however you come up with language, Mr. Chairman, that you would help to facilitate the involvement of regional and small banks in the formation of export trading companies.

Finally, the issue of exclusive versus principal, and its definition of export activity might need a closer look. We changed that—it is the only part of your language we changed in our committee. We used the world principal, but again, it is not a rigid application.

It is just one issue that possibly we could look at in our further efforts to improve the legislation. But in any case, I am so pleased to see the committee is working expeditiously to see enactment of an export trading bill some time in this session of Congress.

Chairman ST GERMAIN. I want to thank the gentleman for his testimony and for his work in this area. I assure him of the fact that we, too, are battling with semantics with exclusive, principal, and what have you.

Hopefully, we will have a great deal of input on this and can come up with an answer to it that will satisfy as many people as possible. We do appreciate the difficulty with that one. I hope that we can come up with something that is acceptable to all, although not the ideal.

There doesn't seem to be an ideal word. Maybe we need to have somebody come up with a new dictionary.

Mr. McKinney?

Mr. MCKINNEY. No questions. I appreciate my colleague's interest in this. I know how deeply this is spelled out in the Northwest and it is in New England. We are aware of the semantics problem. One of the biggest problems I think we will have is to write a bill that tells the Fed what we want rather than the Fed interpret words and tell us what is going to happen.

Thank you.

Chairman ST GERMAIN. The full committee had hearings, as you know, in Seattle last fall. We were, believe me, very concerned about the depressed situation, so I can understand why you and your colleagues from that area of the country are very, very interested in this legislation.

Hopefully, it will be helpful.

Mr. BONKER. I might add that the delegation very much appreciated your presence there because of the state of the housing industry and our heavy dependence on housing.

We are going through economic convulsions, but export trade offers us some opportunity because in the past we have been the victims of the cyclical nature of housing. If we could find an outlet for some of our wood products we could cushion ourselves against the ups and downs in the future.

Weyerhaeuser, a large multinational, does extremely well on the international market, so there is a demand. I hate to see the small mills close down. If they could form trading companies with banking participation they could find a place in the international market which would enhance our economic stability and give us new outlets for our products.

Chairman ST GERMAIN. We heard from approximately 60 witnesses and came away rather saddened by the state of those small sawmills and many workers who are totally discouraged.

Mr. BONKER. It is a dying industry.

Mr. MCKINNEY. It is the same problem that the chairman and I have in New England; our prime manufacturers aren't buying the products the small companies are making. We seem to have a tough time getting people to realize that we have exhausted the domestic market.

We are operating at 60 to 70 percent of capacity. We have to look outside the country for the first time in our history. We could say, "Go West, Young Man," and see to ourselves.

Mr. BONKER. We have gone so far west that we in the West must go to the East to find new markets.

Chairman ST GERMAIN. I hope you will take the opportunity to have a long, friendly chat with the State bank supervisor, Mr. Edwards from the State of Washington and go over this very carefully with him.

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

Chairman ST GERMAIN. Now we will hear from Mr. Lawlor.

STATEMENT OF MATTHEW P. LAWLOR, PRESIDENT, U.S. MULTITRADE CO., ACCOMPANIED BY JOSEPH McGRATH, COUNSEL

Mr. LAWLOR. Mr. Chairman, I will summarize my testimony at this point. I want to thank you for inviting me here today. Since my written remarks will be made part of the record, I will just summarize my testimony at this point.

I am Matthew P. Lawlor, president of U.S. Multitrade Co., a Washington-based international trading and investment firm. I would also like to introduce my counsel, Joseph McGrath.

Since my expertise is focused primarily on opportunities for joint banking and trading relationships, I will confine my remarks to those sections of the bill dealing with banks and export trading companies, or ETC's.

But before addressing the specifics, let me speak for a moment to a broader problem.

The common view holds that smaller American firms are poorly equipped to trade and export, that we suffer from parochialism, inadequate language capabilities, and a general reluctance to pursue foreign markets.

But, are small businesses really any different anywhere else in the world? I submit that these impediments are universal. The success of other nations in harnessing their small business export potential boils down to the use of intermediaries.

Mr. Chairman, the small American manufacturer in Woonsocket, R.I., to name a typical community, is really much the same as the small producer in Zama, Japan. Despite all the talk to the contrary, I believe that both make goods of roughly equal quality, at approximate equal unit costs, and both are in demand in the world markets.

They differ primarily in that the small Japanese firm can turn to a sizable trading company, or soga shosha, for exporting help.

These soga shoshas possess the two keys to successful trading: First, an access to trade financing; and second, an ability to "network." Edwin Newman would cringe at my use of this noun as a verb, and my Webster's doesn't even define it, but "networking" in this sense means a capacity to deal in many locations, in a timely fashion, with a diversified range of products and services.

Unfortunately, many U.S. trading companies lack these critical tools. We must create an atmosphere in which effective American trading intermediaries can flourish.

Therefore, I strongly endorse this legislation. I also realize the delicate nature of the negotiations that have brought us to this point, and I appreciate your desire to avoid unraveling a carefully crafted compromise.

However, while studying congressional testimony on similarly proposed export legislation, I have been struck by the potential for the lack of communication between the banks and the ETC's.

Traders have voiced their concerns and hopes with little understanding of how a bank works. On the other hand, bankers have spoken eloquently about their needs, but have rarely demonstrated a feel for what it takes to succeed in trading.

If I may be so bold, I would like to bridge both cultures and discuss how I believe this legislation will really work, and how it might be improved.

First, I favor an amendment to permit direct bank ownership of ETC's. Many smaller banks do not have Holding Companies or Edge Acts to make ETC investments. Moreover, larger banks have extremely complex organizations that will find it difficult to cooperate with an ETC, which is two steps removed in a Holding Company or Edge Act affiliate.

Why not simply require that the banks isolate trading business into a separate subsidiary, then give the Federal Reserve sole jurisdiction to regulate that sub's activities—just as Congress provides for Edge Act Corporations. Congress could thereby resolve any bank regulatory turf disputes, without compromising the bill's effectiveness.

Second, Mr. Chairman, you are to be complimented in simply applying section 23A to the credit relationship between a bank and its ETC affiliate. Other proposed export trading legislation goes overboard in defining this relationship.

Section 23A has long been used to define a bank's relationship with its nonbank sisters. Why single out ETCs for special treatment?

Third, I recommend that the bank percentage ownership provisions be relaxed. The Fed is justifiably cautious about banks engaging in the trading business. But to require Fed approval of all ETC investments borders on regulatory excess.

Congress should not be concerned about the banks jumping head over heels into the trading business. Nor will the banks gobble up all the small trading companies. Bank capital is in extremely short supply.

But, by misjudging bank intentions and overreacting to Fed concerns, Congress may end up inviting the Fed to intervene in ways that will inadvertantly undermine the safety and soundness of a bank.

For example, a bank having only a small percentage ownership in an ETC may actually be more exposed than a bank having a large equity stake and a meaningful say in the management of its ETC.

In addition, by requiring Fed permission for all ETC investments, Congress will simply encourage banks to use currently available back door vehicles to avoid going to the Fed altogether.

I favor an amendment allowing bank ownership up to 50 percent of an ETC, without Fed permission. And as a counter to bank dominance, I would tighten ownership requirements for investments over 50 percent where the bank's majority position might spell trouble.

Remember, bankers are trained to be risk averse. In contrast, traders, by tradition and necessity, are risk takers. Indeed, bankers and traders will be strange bedfellows at the outset.

To truly benefit from this legislation, a new form of partnership must emerge with ground rules that evolve over time. Congress should assure that neither the bankers nor the traders dominate the marriage in its formative stages. It therefore might be wise for Congress to discourage bank ownership positions beyond 50 percent.

My fourth recommendation addresses the ability of an ETC to take title to goods. The very essence of a trader, and certainly the principal way he adds value and earns his profit, is to assume the risk for goods sold in markets where a particular producer has no familiarity. All other trade services are considered ancillary and only marginally profitable.

In order to service small business, an ETC must batch orders, package their financing, and market the goods wholesale. Timing differences also require warehousing, and limitations on sourcing necessitate a certain degree of stockpiling.

Without the ability to take title to goods, an ETC is just another export management company, stripped of its tremendous potential to increase exports for small American businesses.

I recognize that there have been questions raised relative to warehousing and speculation, but Congress can address these concerns by simply stipulating that ETC's take title to goods only in the course of their ordinary trading businesses.

My last recommendation addresses the restriction that ETC's engage solely in exporting.

Traders earn profit in two principal ways: First, on the spread between the purchase price and the sales price of goods sold; and second, on the quantity—or volume—of the business underwritten. The idea is to maximize both the spread and the volume.

Unfortunately for the trader, low-risk deals carry commensurate low spreads. Either the trader must make up for this with higher volume, or he must accept high risk and go for the home run.

But this is a Hobson's Choice for the small American trader. He has neither the financing nor the network of offices to source and place his products, so he is forced to specialize and go for a few high-risk, high-reward home runs.

And just as Babe Ruth set a new strikeout record in hitting his 714 home runs, so the trader often goes down swinging. The life of

the small trader sways from victor to victim—rich one day, poor the next.

Very few American traders ever escape this box and build their firms into diversified concerns with a high-volume, low-risk mix of business.

Mr. Chairman, by restricting ETC's solely to exporting, the legislation sentences the ETC to precisely the same imprisonment faced by today's small traders.

Bank-affiliated ETC's should be permitted to realize the benefits of networking. They should be able to engage in importing and third-country trade. If an ETC's Hong Kong office spots a trading opportunity in Rio, why should it miss the chance for an honest profit?

Moreover, a strong dollar, rising protectionism, and the shrinking foreign exchange position of developing countries will force American traders in the eighties to find new ways to export.

By prohibiting imports and third-country trade, the legislation denies ETC's the ability to engage in barter and countertrade—two powerful, innovative methods to improve our Nation's export performance.

For example, if we wish to sell American machinery to cash poor Turkey, our equipment and trading companies will have to consider taking back an import such as Turkish chemicals. American exporters will have to "cash out" by selling the product to a third country, or importing it to American markets.

Nonetheless, Mr. Chairman, I do share your committee's concerns about improving our Nation's trade balance. ETC's must be encouraged to export more than they import. I am aware that in previous testimony, the words "primarily," "principally," and even "preponderantly" were raised in this context.

I do not want to be accused of adding fuel to the euphemistic fires, but as a compromise, you might simply require that the volume of ETC exports exceed its imports on a 5-year moving average basis.

In conclusion, let me reiterate that the Bank Export Services Act will take America's export trade a step into the future. It will usher in the day when American traders can compete with such trading giants as Mitsubishi, Andre, Jardine, or Inchcape. The act creates new avenues of experimentation for American export business. And, Mr. Chairman, the timing could not be better.

Thank you, Mr. Chairman.

[Mr. Lawlor's prepared statement follows:]

STATEMENT OF MATTHEW P. LAWLOR

Mr. Chairman, Members of the Subcommittee:

I am Matthew P. Lawlor, President of U.S. Multitrade Company, an international trading and investment firm based here in Washington. I welcome the opportunity to appear before you today.

Let me briefly state, for the record, some details on my background. I am basically a trader, with a background anchored in banking and finance. I served with Chemical Bank in New York, for eight years, in a variety of management assignments. My last assignment was Managing Director of the Bank's international investment subsidiary, which had responsibility for Chemical's equity ventures in 24 countries. One of my responsibilities involved countertrade, and I plan to elaborate further on this innovative form of international commerce. In 1980, on leave from Chemical, I worked in the White House Office of Management and Budget. The following year, I founded U.S. Multitrade.

Since my expertise is focused primarily on opportunites for joint banking and trading relationships, I will confine my remarks to those sections of the bill which deal with banks and export trading companies (ETC's). But before addressing these specifics, let me speak for a moment to a broader problem.

Trade Intermediaries Are Critical For Improved Exports

The common view holds that Americans are poorly equipped to trade and export, that we suffer from parochialism, inadequate language capabilities, and a general reluctance to pursue foreign markets. A strong dollar and foreign non-tariff barriers have further complicated the United States' export equation.

I have studied the trading experience of other nations and I have come to the conclusion that these are not insurmountable obstacles. In fact, I have found that small businesses face these same impedi-

ments throughout the world. The success of other nations in harnessing their small business export potential boils down to the use of intermediaries.

Mr. Chairman, the small manufacturer in a typical American community is really much the same as the small producer in Japan. Despite all the productivity gains of Japan, both small businesses manufacture goods of roughly equal quality, at roughly equal unit cost, and both are in demand in the world markets. They differ primarily in that the small Japanese factory can turn to a sizeable trading company, or sogo shosha, for exporting help.

The soga shoshas possess the two keys to successful trading: (1) access to trade financing; and (2) an ability to "network", or deal in many locations, in a timely fashion, with a diversity of products and services.

Unfortunately, much of American industry in general, and many U.S. trading companies, lack these essential tools. Few small and medium size U.S. manufacturers can successfully handle this financing and networking alone. These firms have no recourse but to turn to equally small specialized trading companies, which also lack the resources critical to success in trading.

Thus, the absence of capable trading intermediaries effectively denies small to medium size U.S. manufacturers the opportunity to sell on world markets. It is no small wonder that our trade deficit may broach $30 billion this year.

Quite clearly, we need to create an atmosphere in which effective American trading intermediaries, like the Japanese soga shoshas, can flourish. Accordingly, those entities which can best provide the two

critical keys to successful trading -- financing and networking -- should not be barred from participating as trading intermediaries.

Banks Have Much To Offer

Mr. Chairman, your bill, the Bank Export Services Act, takes the United States a giant step forward in this direction. It allows a key player in international business, the commercial banks, to play a more active role in U.S. trade, and bring size and diversification to small and specialized American firms. This bill therefore has my strong support.

Notwithstanding my overall endorsement of the bill, let me share with you my ideas about how it will affect banks, trading companies, and American exports. In this connection, I note that some critics offer heightened expectations about greatly increased exports, while others are predicting little or no increase in exports. My views fall between these two extremes.

I have read a great deal of Congressional testimony on similarly proposed export legislation and have been struck by the potential for lack of communication between the banks and the ETC's. Many expert witnesses have testified on the basis of specialized experiences. Traders voice their concerns and hopes with little understanding of how a bank works. On the other hand, bankers speak eloquently about what they need, but rarely demonstrate a feel for what it takes to succeed in trading.

As a person who has worked in both fields, I would like to bridge both cultures and discuss how I believe this legislation will really work, and how it might be improved.

Direct Bank Ownership Of ETC's Should Be Permitted

First, the ways in which trading companies will benefit from a bank's overseas contacts is often misunderstood. The everyday credit or account officer is far too busy with overdrafts, letters of credit, loan workouts, and the like, to worry about referring business to a trading company affiliate. Believe me, because I have experienced it first hand, it is also extremely difficult to get the separate units of a bank to work together. This is not unlike the extremely difficult task of coordinating the executive agencies in the federal government.

Large banks, in particular, are highly complex organizations. For lack of any better way of expressing it, they are "organized" in a matrix. Some units are centralized around a certain geographic area, while another set of organizational units is responsible for a particular product or function without respect to geographic boundaries. Responsibilities necessarily overlap, and friction between units is almost inevitable.

Any export trading bill involving banks must address this organizational tension. But, as currently proposed, H.R. 6016 fails to do this. The Act may encourage debilitating breaches between banks and their trading company affiliates. By restricting ETC ownership to Edge Act Corporations or Bank Holding Companies, trading companies will be two steps removed from banks, rather than simply one. Congress might aggravate, rather than ease, the difficult task of communication between a bank's ETC affiliate and its other units.

The smaller banks, which have relatively straightforward organizations, will fare no better under the currently proposed legislation. By restricting bank ETC's to Edge Act Corporations and Bank Holding

Companies, many smaller regional banks may be precluded from making ETC investments for lack of an Edge or Bank Holding vehicle.

In short, the requirement that ETC's and banks be kept separate decreases the likelihood that ETC's and banks will be able to cooperate effectively to improve the U.S. trade picture. I therefore favor an amendment to permit direct bank ownership of an ETC.

I believe the very legitimate concerns of Congress about preserving the safety and soundness of the bank shareholder can better be met by simply segregating all bank trading activities in a separate trading company subsidiary having Federal Reserve Bank jurisdiction.

Banks Will Proceed Cautiously With ETC Financing

Another myth surrounding this legislation is that banks will aggressively dive into the export trading business and devour all the small firms. This is unlikely to happen. Bank capital is in extremely short supply. And the capital requirements of the industry are increasing, not diminishing, as new technology is required and consolidation occurs in the financial services industry.

Do not expect to see banks zealously lending to their ETC affiliates either. A bank will want to avoid conflicts of interest with letter of credit customers who do not do business with the bank's ETC's. Besides, banks will want to increase their share of the trade financing business. Banks may well choose to deal directly with third parties in a trade, rather than finance transactions through affiliated ETC's.

For example, if a bank's ETC affiliate wants to sell some American made semiconductors to a medium size French concern, the French importer may ask the ETC for credit terms. Instead of lending to the importer, the ETC can refer the business to its bank affiliate.

Chances are that the bank will have a branch or representative office in Paris, or elsewhere in Europe, most anxious to penetrate the so-called "indigenous middle market". The ETC referral will be a great opportunity for the bank to establish a banking relationship with the French company.

It may also be noted here that the manner in which a bank will relate financially to an ETC affiliate is dictated in large part by the practical aspects of the banking and trading businesses. The Senate passed ETC bill, S. 734, goes into excessive detail in defining bank financial relationships with ETC's.

Your Committee is to be complimented, Mr. Chairman, for simply applying Section 23A of the Federal Reserve Act to a bank's credit relationship with its ETC affiliate. This section spells out how banks must deal with non-banking affiliates. There is no reason to treat ETC's any differently from other non-banking affiliates. Moreover, Section 23A will give the Fed all the regulatory tools it needs to preserve the safety and soundness of the ETC's bank shareholder.

ETC And Bank Operations Differ Fundamentally

Another popular idea is that banks will lend their vast international commercial experience to the ETC effort. Some claim that major international bank backing will offer an ETC a leg up on local country market research. Others believe that the banks can offer better negotiating leverage.

While there may be a germ of truth to these ideas, it must be remembered that banking and trading are two fundamentally different businesses. It is doubtful that bankers and traders will find it easy, from the start, to work together.

For example, bankers are trained to be risk averse. In this way, a banker moves like an elephant. He always tests the ground before he shifts his bulk to it. The banks therefore require extensive documentation, and are often reluctant to engage in hand-to-hand combat with your everyday business executive.

This is, in fact, the way it should be. Although increasingly competitive, bankers remain aloof and conservative so as to protect their depositors. When a bank is leveraged up to 40 times on its equity, it is especially important for bankers not to take any unneccesary chances.

In contrast, traders, by tradition and necessity, are risk takers. They are often entrepreneurs, goal oriented, and will do whatever structuring is necessary to get the deal done. Quick decision-making is essential.

Clearly, a conservative banker would be lost in this environment. To the banker, the essence is how a deal is structured. To the trader, the essence is getting the deal done.

The bankers and traders will approach each other with additional conflicting objectives. Even though profit is made in each business in a similar fashion (by buying merchandise, or a commodity such as money, and then selling it at a higher price), the methods and requirements of each business are widely divergent. Banks may see their ETC's as a means to an end (e.g., more financing business), whereas the ETC's will likely view trading as an end in itself.

Given these fundamental differences, some bank affiliated ETC's may find themselves under a myriad of bank imposed restrictions. Surely, the bank's ability to structure deals and consider factors such as country risk, will add much to the trader's effectiveness. But

the bank may also impose limitations on its ETC affiliates ranging from the types of countries and products in which the ETC can deal, to the timing and execution of trading decisions. An ETC should also be prepared to welcome and happily appease some very fastidious bank auditors. Finally, an ETC may be required to spread out its business risk. After all, there is nothing more anathema to a banker than volatililty -- even if the ETC believes that the volatility is derived from routine trading cycles.

So, Mr. Chairman, bankers and traders will indeed be strange bedfellows. Although I firmly believe that the marriage which your committee is brokering holds tremendous potential, it will require a great deal of nurturing and understanding from both sides. The opposites will have to learn to complement, not contradict, each other. New policies and operating procedures must evolve over time.

Regulate, But Do Not Aggravate Bank/ETC Differences

Just as the banks and traders must craft their joint ventures with care, so too must Congress carefully design the ground rules for ETC ownership. Regulation must be forceful and unambiguous. And penalties for non-compliance must be swift and certain.

But Congress must also be careful to avoid regulatory excess. Overzealous intervention will surely upset the natural evolution that needs to take place before banks and trading companies can emerge as true partners.

For example, we cannot expect a happy marriage between bankers and traders, or possibly even a courtship, unless banks are permitted to at least share in the control of their ETC affiliates. H.R. 6016, as written, may effectively frustrate the sharing of control by requiring Federal Reserve approval of all bank investments in ETC's.

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Let me stress that the Fed has legitimately expressed its concerns about bank involvement in non-bank business. It will no doubt support any measure to exert its full control over bank ETC business. However, in vigorously asserting its reservations, both privately and publicly, I wonder if the Fed has not overstated its case.

Because of the banking industry's rather uneven, if not disappointing, results from non-banking investments over the past decade, I doubt that banks will overextend themselves on ETC's. Moreover, the chief concern of the Fed -- protection of bank depositors -- is jeopardized most when banks lose control over investments or credit extensions. By granting the cautious Fed too much authority to intervene with bank investment decisionmaking, it may force banks to excessively limit their investments. Thus, the legislation may inadvertently usher in higher risk for bank depositors.

Secondly, it is a bit curious why the Fed should approve all ETC investments when the International Banking Act of 1978 allows greater flexibility. Edge Act corporations may already make portfolio investments of up to 20 percent and $2 million in an international trading company, without specific Federal Reserve permission. Why must an export trading company investment under 20 percent now require the Fed's approval, when a similarly sized investment in an overseas coal mine requires no such permission?

I therefore favor explicitly allowing banks to own up to 50 percent of ETC's, without Fed permission. Requiring specific authority for all investments invites the Fed to be overly restrictive and is inconsistent with existing regulations.

On the other hand, in recognition of the critical differences between banking and trading, Congress may wish to consider tightening bank shareholder requirements for ETC investments over 50 percent.

ETC's Can Be Competitive Only With Non-Export Capability

Another concern relates to the authorized activities of bank affiliated ETC's. Mr. Chairman, while I endorse your bill, I have serious reservations about restricting the business of ETC's solely to exports. The very reason I support the legislation is that it will help the thinly capitalized, overspecialized American trading fraternity to develop into a stronger group of firms, capable of performing a diversified range of essential trading activities. This business diversification is key.

Traders who take title to goods earn profit in two ways: first, on the spread between the purchase price and the sales price of goods; and, second, on the volume of business underwritten. The idea, of course, is to maximize both the spread and the volume.

Unfortunately for the trader, low risk deals carry commensurate low spreads. Either the trader must make up for this with higher volume, or he must accept high risk and go for the home run. But this is a Hobson's choice for the small American trader. He has neither the financing nor the network of offices to source and place his products, so he is forced to specialize and go for a few high risk, high reward home runs.

And just as Babe Ruth set a new strike out record while hitting his 714 home runs, so the small trader often goes down swinging. The life of the small trader sways from victor to victim -- rich one day, poor the next. Very few American traders ever escape this box and

build their firms into diversified concerns with a high volume, low risk mix of business.

Mr. Chairman, by limiting bank affiliated ETC's solely to exporting, as H.R. 6016 now does, the bill sentences the ETC to precisely the same imprisonment faced by today's small traders. Bank affiliated ETC's should be permitted to realize the benefits of diversification and networking. In addition to exporting, they should be able to engage in importing and third country trade. Why should Congress limit the effectiveness of American trading companies? If an ETC's Hong Kong office spots a trading opportunity in Rio de Janeiro, why should it miss the chance for an honest profit? If Congress excludes these opportunities, there is little doubt that our bank affiliated ETC's will be less than competitive in world markets.

Countertrade Capability May Improve U.S. Export Competitiveness

Recent trends in international trade bear this out. Protectionism is on the rise, and developing countries are running out of foreign exchange to pay for imports. The developed countries are also feeling the recession pinch.

To paint an even bleaker picture for American trade, the U.S. dollar has firmed, making our exports more expensive. Some advise that if interest rates fall, the dollar will soften and we will be competitive again. I seriously question this thesis. If rates decline, it will be because we have finally licked inflation. And low inflation economies, such as the Swiss, German, and Japanese, are usually characterized by strong currencies.

So we American traders have our work cut out for us in the 80's. Among other things, we are going to have to look to new ways to trade.

Mr. Chairman, the proposed legislation may not fully appreciate these trends, and thus may inadvertently stifle our nation's export competitiveness. By limiting ETC's to exporting, the legislation denies ETC's the ability to engage in barter and countertrade -- two powerful antidotes to trade barriers and foreign exchange shortages.

For example, if we wish to sell American machinery to cash poor Turkey, our equipment and trading companies will have to consider taking back an import such as Turkish chemicals. American exporters will have to "cash out" by selling the product to a third country or importing it to the United States. Only trading companies with multiple trading capabilities and with access to credit will be able to compete vigorously.

Thus, by restricting ETC's to exports exclusively, Congress may unwittingly frustrate American exporters and doom bank affiliated ETC's to failure.

Require Only That Exports Exceed Imports

Nonetheless, Mr. Chairman, I share your concerns about improving our nation's trade balance. ETC's must be encouraged to export more than they import. Perhaps, as a compromise, you might require that the volume of ETC exports exceed its imports on a five year moving average basis. This "export averaging" will give ETC's the ability and flexibility to engage in importing and third country trade. It will also give ETC's much needed leeway in accounting for year-to-year swings in non-export business. At the same time, however, ETC's will be obligated over time to contribute positively to the nation's trade balance.

ETC's Must Have the Ability to Take Title to Goods

Finally, Mr. Chairman, let me comment on the ability of an ETC to take title to goods. The very essence of a trader, and certainly the principal way he adds value and earns his profit, is to assume the risk for goods sold in markets where a particular producer has no familiarity. All other trade services are ancillary and only marginally profitable.

In order to service small business, an ETC must batch orders, package their financing, and market the goods wholesale. Timing differences also require warehousing, and limitations on sourcing necessitate a certain degree of stockpiling. Without the ability to take title to goods, an ETC is just another export management company -- stripped of its tremendous potential to increase exports for small American businesses.

I recognize the fact that there have been questions raised relative to warehousing and speculation, but Congress can address these concerns by simply stipulating that ETC's take title to goods only in the course of their ordinary trading business.

Conclusion: H.R. 6016 Creatively Addresses America's Export Problem

In conclusion, Mr. Chairman and members of the Subcommittee, the Bank Export Services Act takes America's export trade a step into the future. Everywhere we turn, reciprocity is advocated as the U.S. response to rising protectionism and foreign imports. But I am afraid that reciprocity will merely set the stage for a breakdown in multilateral trade negotiations, and for an endless series of highly political confrontations between nations.

The best answer to reciprocity is creative action to encourage U.S. exports. I urge the passage of H.R. 6016, "The Bank Export

Services Act of 1982", as a positive way to regain our nation's leadership in world markets. This can be the beginning of our trade renaissance.

This legislation will usher in the day when American traders will be able to compete with such foreign trading giants as Andre, Jardine, Inchcape, Mitsui, or Mitsubishi. The Act creates new avenues of experimentation for American export business at no cost to the taxpayer. And, Mr. Chairman, the timing could not be better.

I would be pleased to respond to any questions you might have.

Chairman ST GERMAIN. Thank you.

Mr. Chew, we will put your entire statement in the record.

STATEMENT OF RALPH H. CHEW, PRESIDENT, NATIONAL ASSOCIATION OF EXPORT COMPANIES, INC., ACCOMPANIED BY GILBERT WEINSTEIN, SECRETARY-TREASURER

Mr. CHEW. I am Ralph Chew, president of the National Association of Export Companies [Nexco] and president of Chew International Group, and I am accompanied by Gilbert Weinstein, secretary-treasurer.

Nexco is the principal national association of U.S. companies engaged in exporting and facilitating the exportation of goods and services produced in the United States. Nexco members consist of approximately 170 export management and export trading companies.

The two previous witnesses are not members of our association, although they will certainly be solicited. I am pleased to appear here this morning to testify in support of the Bank Export Services Act.

Nexco has made a survey of the existing export trading industry, and the results of the survey are available in my written testimony. It shows that there are approximately 2,000 export trading companies doing approximately 10 percent of the exports in the United States.

When you add the grain traders, the metal traders and the Japanese companies, independent exporters are doing 25 percent of the trade of the United States. While Congress has been legislating concerning export trading companies, American export trading companies exist, they do not need to be created.

The preoccupation of the Congress on legislation in this area should be the fostering and protection of the existing export trading companies.

Nexco believes that the Bank Export Services Act offers a reasonable foundation on which to build banking industry support for the export trading company. We agree with the approach adopted in the bill.

However, after careful analysis of the proposed legislation, we conclude that we would endorse the bill if three safeguards are included in the legislation.

One, The "Chinese wall": I understand that is a specific banking term. We feel there should be an explicit Chinese wall designed to protect the privacy of export trading companies.

Nexco is concerned that business information about its members' activities could easily be used to assist bank-affiliated export trading companies, or misused.

Two, equal credit terms. Nexco believes there should be a strict requirement in the bill that credit terms extended to bank-owned ETC's should be no more favorable than the terms extended to independent ETC's. We are concerned that this legislation contains no such provision.

Three, we believe there should be recommended or fostered an Office of Export Trading Company Affairs in the Federal Reserve

Board to implement the bill and monitor bank holding company ownership of export trading companies.

The mere existence of such an office may prevent abuses which might occur.

At this time, there are several questions in the letters you have sent around to us concerning the use of bank names and whether export trading companies should be able to import and manufacture and take title.

Our survey of our association shows that about 14 percent of Nexco members do some importing as part of their export operation. We, therefore, feel that importing should be permitted if it is pertinent to export sales.

We really have no comments on the bank name, although we feel that in some instances it might place smaller independent ETC's at some competitive disadvantage.

MANUFACTURING

It appears the language of the legislation prohibits bank-owned ETC's from engaging in manufacturing, even when it is merely relabeling and repackaging U.S. products.

In my business, we frequently relabel or repackage manufactured products, sometimes using my registered mark and we translate labels. Nexco recommends the legislation be amended to permit minor product modifications which are essential to marking of U.S. products overseas.

Taking title to goods, I think everybody agreed this was necessary. There is a very strong misconception concerning our industry, which is made up of export management companies and export trading companies. Eighty-four percent of our members take title to goods and this is a necessary part of an export management or export trading cooperation.

Some of the emphasis for export trading company legislation seems to stem from a desire to transplant Japanese trading companies to the United States. This, we feel, is based on a misunderstanding of the role trading companies play in the Japanese economy. Larger Japanese trading companies normally do most of their business in the Japanese domestic economy itself.

Exporting Japanese-manufactured goods is not the principal business of these Japanese trading companies. For example, Mitsui's annual report in 1980 reported only 17 percent of their sales were exports from Japan. They are not primarily export trading companies.

The second difference between Japan and the United States is the historic preference to sell their own products. However, in two aspects the Japanese model is appropriate. It represents an efficient partnership between Japanese banks and Japanese trading companies.

Of the 10 largest Japanese trading companies, none is controlled by a single bank or group of banks. Rather, the Japanese trading companies are partners with groups of banks which collectively own a minority position, generally running between 20 and 30 percent for the top 10.

The average bank share in each of these Japanese trading companies is less than 6 percent.

Second, Japanese commercial law does not arbitrarily isolate ocean freight forwarding and traffic functions from other elements of international trade transaction. In contrast, in the United States, the shipping laws and associated regulations of the Federal Maritime Commission established ocean freight brokerage as the exclusive preserve of independent freight forwarders.

As most ETC's take title to the products they export, U.S. export trading companies are denied the right to profit from freight brokerage by statute.

This freight forwarding brokerage disallowance by the FMC to U.S. export trading companies has stunted their growth, limited profitability and curtailed activities in the shipping field.

We are like people with one arm requiring to paint a house.

This regulation is only the "tip of the iceberg" of regulations which burden our industry and which will stymie bank-owned ETC's as well. The layers of regulations on ocean freights, of which this brokerage prohibition is only one, inhibit the very essence of international trading companies, negotiating freight rates.

For historical reasons, often no longer relevant, ocean freight rates are usually higher on exports than on imports. Nexco believes this regulatory barrier alone costs this country billions of dollars, first as an adverse surcharge on the U.S. balance of trade, and second, as an obstacle to our competing effectively in third countries with Japanese and European trading companies.

Ocean freight is a crucial problem area in which my industry hopes bank participation will strengthen our efforts to lift the regulations on freight rates and other burdensome rules which shackle U.S. exporters.

I recognize this problem lies outside of the jurisdiction of the subcommittee.

No one knows with certainty what the consequences of permitting financial institutions to own ETC's will be. Nexco trusts that the legislation before Congress will stimulate broad bank interest in our industry and that the infusion of new capital and credit will enable us to grow even faster than in the past.

Nexco members look forward to working with banks in an atmosphere of collaboration and constructive competition to increase U.S. exports. We welcome joint ventures and other forms of bank participation in our industry.

Equity ownership is by no means the only, nor the best, kind of participation for banks that can enhance U.S. exports. At the same time, we anticipate renewed and improved cooperation with the Department of Commerce to insure that the legislation is not the first and last effort the Government takes to enhance American export performance. It is a first step, but only the first, in that direction.

Nexco is convinced that there is a need for greater participation and interest by banking institutions in the export activities of ETC's. At the same time, we are concerned that any legislation enacted by Congress not disrupt the existing positive contributions of independent ETC's to the export performance of the United States.

We believe that H.R. 6016, amended as we have suggested in this testimony, would be an important and constructive step toward achieving these goals. We are pleased to be able to support the chairman's bill and look forward to working with the subcommittee in the weeks ahead in order to construct final legislation that will stimulate U.S. export sales by American ETC's without, at the same time, detracting from the already substantial contributions that independent ETC's make to the U.S. balance of trade.

Thank you, Mr. Chairman, for this opportunity to express our views.

[Mr. Chew's prepared statement, on behalf of the National Association of Export Companies, follows:]

HOUSE COMMITTEE ON
BANKING, FINANCE AND URBAN AFFAIRS

SUBCOMMITTEE ON
FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE

Hearings on
Bank Export Services Act (H.R.6016)

STATEMENT OF
NATIONAL ASSOCIATION OF EXPORT COMPANIES, INC.
200 Madison Avenue
New York, N. Y. 10016

I. Introduction

I am Ralph H. Chew, President of the National Association of Export Companies (NEXCO) and President of Chew International Group, an American export trading company headquartered in New York with overseas offices in Caracas, Puerto Rico and Dubai. I am accompanied by Gilbert Weinstein, Secretary-Treasurer of NEXCO.

NEXCO is the principal national association of United States companies engaged in exporting and facilitating the exportation of goods and services produced in the United States. NEXCO members consist of approximately 170 export management and export trading companies.

We are pleased to appear before the Subcommittee today on behalf of NEXCO to testify in support of the Bank Export Services Act (H.R.6016). NEXCO believes that the legislation, if amended to include the three safeguards for existing ETCs we are proposing in this statement, will increase U.S. exports and export awareness. But it is only one of several steps that should be adopted to free U.S. export traders from a burden of Federal regulation which hampers our competing with Japanese and European trading companies.

Congress should recognize that enactment of H.R.6016 or S.734, the Senate counterpart, will not "create" export trading companies -- they already exist and are thriving -- but only permit certain financial institutions to own them. Much more is needed to stimulate American export trading so that U.S. ETCs, whether they be bank-affiliated or independent, can compete vigorously with foreign ETCs. The Subcommittee has asked NEXCO to testify in order to generate some facts about the U.S. trading company industry. Our statement will do just that, although at times we will stray into important issues that lie outside your immediate jurisdiction. However, that is necessary if you are to understand the environment in which banks will have to operate if they own or participate in ETCs.

Our testimony will address three major areas:

(1) A description of ETCs and their activities.

(2) Recommendations for amendments to the Bank Export Services Act.

(3) A discussion of Federal regulations that stifle economic efficiency in the ETC industry.

II. Export Management Companies: American Export Trading Companies

While Congress has been debating legislation to "create" American export trading companies, those very companies were busy exporting an estimated $12 billion in American goods and services in 1980. Thus, while prominent members of Congress have declaimed that "there are no American export trading companies," ETCs accounted for approximately 10 percent of the $117 billion in U.S.

exports of manufactured goods last year. And, while U.S. lawmakers saw visions of Yankee Mitsubishis and Mitsuis, my industry was expanding substantially faster than U.S. exports of manufactured products, growing 534 percent from 1970 to 1980 while overall U.S. exports rose by only 329 percent.

U.S. export trading companies are a thriving industry that have made a major positive contribution to the U.S. economy and the balance of payments. Nonetheless, members of Congress and officials in the Executive Branch are determined to enact legislation (Senate bill S.734; House bill H.R.6016) that would allow major U.S. banks to own and control ETCs. I am aware of no serious effort on the part of these government officials to build on the impressive record of existing ETCs or to examine the need for deregulation of U.S. maritime laws and rules which tie the hands of the ETC industry.

Our statement will examine these neglected issues in the light of a recent survey of 92 ETCs which are members of NEXCO. The data from the survey confirm the need for greater financial flexibility and support from the banking community. Nonetheless, they also depict a vigorous industry that should not be jettisoned for the mere sake of bank expansion.

A Primer on ETCs

Export trading companies specialize in developing overseas markets for the products of U.S. manufacturers. ETCs are responsible for constructing an export sale strategy that involves the full spectrum of marketing activities ranging from tailoring a U.S. product to a particular foreign market or client, orchestrating a sales and financing package to promote that product and following

through to see that the U.S. goods are used or operated in the most appropriate manner.

Export managers are sales managers. We are marketing oriented, but ours is a marketing effort which is much more than the foreign duplication of the U.S. manufacturer's domestic efforts. We provide our clients with the information necessary to adapt the domestic product to the requirements of foreign markets. To expedite the export process, ETCs usually take title to goods when they are still in the United States. In addition, we find that our professionalism is enhanced by the contractual nature of our relationships with our clients, instead of our being employees.

While achieving overseas sales is the most important function of our EMCs, the logistics and complexities of foreign trade have encouraged the development of a range of related world trade services including:

-- Shipping. Economical and prompt delivery requires a full service shipping department. Although this function, so integral to the evolution of the export activities of the Japanese trading companies, has been stunted by U.S. regulatory prohibitions on EMC participation in ocean freight brokerage, overseas shipping expertise is nonetheless a crucial element of our sales and service.

-- Financing, collection, banking relations, and credit. This function involves the collection of letters of credit, discounting collections, handling credit insurance, compilation of credit information, dealing in foreign exchange, and tracing draft collections

which often involves a laborious transfer of payment money through the several banks that may be involved in a collection.

-- Regulation compliance. Based on information compiled by our worldwide network, regulatory compliance includes coping with both U.S. and foreign trade barriers and regulations. Packaging and labeling compliance is a specialized field in this area.

-- Language abilities and rapid communications. Having foreign language capabilities in-house has become even more important as the telex and telecommunication satellites have replaced the business letter as the standard means of communication in our field. Rapid communication responses preclude relying on outside translators as was often the practice in the past.

Many American ETCs originated as combination export managers (CEMs) which operated as sales representatives for a group of non-competing manufacturers. CEMs invoiced their products in the name of the manufacturer because they were usually very small firms unable to finance the exports themselves. CEMs were comparable to the manufacturer's representatives or brokers used widely in domestic markets by many U.S. industries. CEMs differed from other exporters in that they represented some of their suppliers exclusively for some or all foreign markets.

Today, most U.S. export trading companies serve as the export sales department for several manufacturers. ETCs, in general,

operate in one of two ways: (1) as export distributors and (2) as export representatives. Export distributors normally buy goods from a U.S. manufacturer, taking title to the merchandise, and then market the item overseas. Export distributors assume the financial and legal risks for their products under this exporting arrangement. In this relationship, the U.S. manufacturer does business with the ETC in a manner comparable to its dealings with any domestic purchaser of its goods. The ETC maintains the relationship with the overseas client and shoulders the credit risks involved in export sales.

As an export representative, ETCs may perform all of the normal functions of an export distributor; however, they do not assume the credit risks. The U.S. manufacturer typically carries the account of the foreign client and bears ultimate responsibility for accepting or rejecting the terms of any deal made by the export representative.

As Table 1 shows, the great majority of NEXCO companies act as export distributors, buying U.S. products on their own account and marketing them abroad. Of the 92 respondents to the questionnaire, 89 (or 97 percent) replied that they engaged in export distribution. Indeed, 77 percent indicated that export distribution accounted for more than three-quarters of their total business and 85 percent said it claimed a majority of their 1980 export volume.

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Table 1

Major Business Activities of Export Trading Companies
(By percentage of 92 NEXCO respondents)

Activity	Share of Total Operations			
	1-25%	26-50%	51-75%	76-100%
Export distributor, buying goods on own account and marketing them abroad	8.7%	3.3%	7.6%	77.2%
Export agent working on commission	29.3%	6.5%	1.1%	8.7%
Exporter of goods produced by yourself	6.5%	--	--	--
Importer	10.9%	--	3.3%	--
Marketer of goods produced abroad in other foreign countries	19.6%	--	1.1%	--
Participant in commodities and securities transactions	--	1.1%	--	--

Although 46 percent of NEXCO respondents perform export commission activities, such work accounts for a majority of the exports of only 10 percent of the companies. The bulk of the companies perform export representation services that amount to less than one quarter of their total export volume. As the table shows, a limited number of NEXCO companies perform other services, including the marketing of foreign goods in third countries.

Role Of ETCs In Promoting Exports Of Small and Medium Sized Manufacturers

More so than their competition abroad, U.S. manufacturers prefer to control every facet of their production cycle from procurement of raw materials to the final sale to an end-user. American producers do not like to delegate important portions of their

operations to outside parties. That explains why only a relatively small percentage of U.S. export sales are made through the auspices of export trading companies while a major share of Japanese and European exports are conducted through ETCs. This corporate xenophobia is probably not a weakness of the U.S. economic system but merely a characteristic of it.

American ETCs, in general, have had to concentrate their export services among the small and medium sized U.S. manufacturers that have little or no international experience and that are too small to enjoy economies of scale in foreign markets that they can obtain in the domestic marketplace. This concentration on smaller manufacturers is demonstrated in Table 2 which displays the distribution of NEXCO members' manufacturing suppliers based on the latter's estimated annual gross revenues.

Table 2

Characteristics of ETC Suppliers,
According to Volume of Gross Annual Revenues, 1980
(By percentage of 92 NEXCO respondents)

Supplier Sales Volume	Percentage of ETC Export Volume			
	1-25%	26-50%	51-75%	76-100%
$10 million and less	25.0	21.7	22.8	18.5
$11 million - $25 million	38.0	19.6	1.1	1.1
$26 million - $50 million	37.0	8.7	1.1	--
$51 million - $100 million	27.2	4.3	1.1	1.1
$101 million - $250 million	18.5	1.1	--	--
$251 million - $500 million	18.5	--	1.1	--
$501 million - $1 billion	17.4	--	--	--
More than $1 billion	14.1	--	--	--

The table shows that 88 percent of NEXCO respondents do business with small manufacturing suppliers with sales volumes of $10 million or less. Only 14 percent of the respondents handle the export business of suppliers with more than $1 billion in sales.

Approximately 18 percent of NEXCO respondents did most, if not all, of their business with suppliers with 1980 sales of $10 million and under. The remainder conducted a substantial portion of their export business with larger manufacturers, although the volume tapered off consistently the larger the supplier. The fact that approximately 32 percent of the companies provided export services for larger manufacturers with sales of $500 million and up is explained by the fact that many large manufacturing concerns, with their own exporting departments and overseas sales networks, nonetheless rely on ETCs to market their products in geographical regions where the ETC has an established market position and the manufacturer has none.

The distribution of an ETC's business among a variety of suppliers of varying size can be seen from a slightly different perspective in Table 3.

Table 3

Percentage of Suppliers' Export Volume Handled By Export Trading Companies
(By percentage of 92 NEXCO respondents)

1-25 Percent of Suppliers' Export Volume	26-50 Percent of Suppliers' Export Volume	51-75 Percent of Suppliers' Export Volume	76-100 Percent of Suppliers' Export Volume
17.4%	14.1%	15.2%	53.3%

Although the majority of NEXCO respondents (53 percent) indicated that they handle more than three-quarters of their suppliers' total export sales, an almost equal number (47 percent) handle a substantially smaller share of their supplier's export needs. As Table 2 demonstrated, these suppliers tend to be the larger U.S. manufacturers that use ETCs at all.

These data confirm the general assumption that export trading companies play a vital role in bolstering U.S. export performance by providing small and medium sized manufacturers with an avenue for entering the export business. As these suppliers grow in size and as the volume of their export sales increases, they may well revert to their preference for independent exporting operations. In that event, the manufacturer will either terminate its use of ETCs or relegate the use of ETCs to markets overseas which lie outside the manufacturer's principal marketing areas. On occasion, a manufacturer will resume the use of an ETC's services after having tried and failed to step into a foreign market on its own. More often, however, companies turn to ETCs after an initial disappointment in the marketplace overseas.

The Cluster Effect

As in most fields of human endeavor, ETCs must specialize their export operations to some degree in order to provide quality service to their clients and suppliers, and to achieve the economies of scale needed to penetrate foreign markets.

The essence of an effective export trading company operation involves service to a cluster of firms sharing compatible product lines. A synergy occurs when large and small companies' products are marketed by a single export trading company. The

ETC is able to provide a panoply of foreign contacts and export services that would not be available to an individual manufacturer or for manufacturers in widely disparate product areas. In a sense, the ETC creates a critical mass which varies depending on particular circumstances and this mass enables ETCs to provide the economies of scale that individual small exporters do not enjoy.

This synergy is the product of a fairly delicate balance among the suppliers of an ETC and can be destroyed easily should the cluster of an ETC's exporters be disturbed. Export trading companies have increasingly recognized the importance of the cluster effect and have concentrated their efforts to increase the benefits derived from grouping product lines in a unified sales and marketing strategy.

The following tables demonstrate two complementary aspects of the cluster effect among NEXCO respondents. First, ETCs build their export services around a limited number of major products lines (although the number of specific products within each line may vary from a very few to more than a score). Second, within these relatively limited and specialized product lines, ETCs export the goods of a substantial number of manufacturers. The data show that ETCs must specialize to some extent -- as the great majority of U.S. corporations do to provide a quality product -- and, at the same time, integrate largely compatible, non-competitive products from several suppliers into a marketing package that is more saleable than the sum of its parts.

Table 4

Major Product Lines and Individual Products Exported by Export Trading Companies
(By percentage of 92 NEXCO respondents)

	Number				
	1-2	3-5	6-10	11-20	Over 20
Major Product Lines (Families of products, e.g.,machine tools, electronic equipment, processed foodgoods.)	15.2%	29.3%	28.3%	8.7%	18.5%
Individual products per major product line	8.7%	7.6%	18.5%	12.0%	53.2%

Nearly 60 percent of NEXCO respondents concentrate their export sales on a limited number of major products ranging from three to 10 product lines. This range appears to represent the optimal number of compatible products that enable an ETC to achieve both flexibility and specialization in its efforts to penetrate foreign markets. Nonetheless, a substantial number of ETCs either specialize to a great extent on one or two product lines such as machine tolls or photographic equipment, or they span a very broad range of product lines. Inspection of individual NEXCO company responses suggests that those ETCs reporting over 20 major product lines tend to be the largest ETCs both in terms of sales and workforce.

The fact that 53 percent of NEXCO respondents sell more than 20 individual products within each major product line appears to confirm the observation that ETCs must present a complete product line to their potential clients in attempting to capture a substantial share of foreign markets. They do this, to a very great extent, by integrating the individual products of several manufacturing suppliers into a package. Table 5 shows that the average NEXCO member company exports the products of at least

six, and often well over 30, U.S. manufacturers.

Table 5

Average Number of Manufacturing Suppliers
By Percentage of 92 NEXCO Respondents

	0	1-2	3-5	6-10	11-20	20-30	Over 30
On a global basis	3.3%	3.3%	4.3%	18.5%	29.3%	16.3%	25.0%
On a regional basis	29.3%	8.7%	13.1%	21.7%	8.7%	6.5%	12.0%

Once more, an analysis of individual questionnaire responses suggests that the average number of manufacturing suppliers for each ETC is directly proportional to the size of the ETC in terms of annual export volume and workforce. Companies reporting less than $10 million in export sales in 1980 also tended to distribute or represent the products of between six and 20 suppliers. On the other hand, companies with export sales volumes greater than $10 million reported more than 20 suppliers, on the average.

Export Sales Volume

As there are no comprehensive data with regard to the export sales performance of export trading companies, there are no hard statistics on their 1980 export volume. Nonetheless, the results of the NEXCO questionnaire suggest that ETCs accounted for approximately $12 billion in total export sales in U.S. manufactured products last year.

Table 6 displays the reported 1980 export sales volume of the 92 respondents to the NEXCO questionnaire, broken down into dollar ranges.

Table 6

Export Trading Company

1980 Export Sales Volume
(By percentage of 90 NEXCO respondents)

$1mm or less	$1-3mm	$3-5mm	$5-10mm	$10-20mm	$20-50mm	Over $50mm
8.7%	19.5%	13.0%	20.7%	18.5%	14.1%	3.3%

Computing the totals for the low and high ranges of the seven categories in Table 6 yields a range of $738 million to $1.5 billion in 1980 export sales volume for the 90 NEXCO respondents. Thus the average respondent reported export sales last year of $8.2 million to $17 million.

Extrapolating from these data to the entire ETC industry is at best difficult. The Commerce Department has estimated that there may be as many as 2000 export trading companies operating in the United States, although the actual number of ETCs that the Department lists in its ETC directory is well below one thousand. If the data for the average NEXCO respondent were extended on a dollar-for-dollar basis, they would yield an industry export volume of $16.4 billion to $34 billion. This would assume that the average NEXCO respondent accurately reflects the average ETC in the industry, a fallacy as NEXCO members represent many of the largest ETCs operating in the United States.

A more realistic extrapolation of the NEXCO data suggests that the 1980 export volume for all U.S. ETCs ranged from $8.2 billion to $17 billion. A similar estimate is obtained from interviews with industry experts who believe that NEXCO member companies account for approximately one-sixth of the industry total. Extrapolating from the totals for the respondents to the NEXCO questionnaire, NEXCO members account for $1.4 billion to

$2.9 billion in 1980 export sales. Thus the industry totals would be $8.4 billion to $17.4 billion. An arbitrary averaging of the low and high ranges yields an approximate $12 billion figure for total ETC exports of manufactured goods last year.

Rapid Growth

Export trading companies have recorded an impressive rate of growth over the past decade in comparison to the increase in total U.S. exports. U.S. exports of manufactured products expanded 403 percent during the 1970s, from $29 billion in 1970 to $117 billion last year, while total U.S. exports increased only 329 percent from $66 billion to $217 billion.

Table 7

Export Trading Companies,
Comparison of 1980 Sales to 1970 Sales
(By percentage of 89 respondents)

Decline	Same	50	100	150	200	250	300	350	400	450	500	600	700	800	900	1000	Over 1000
--	4.3	12.0	14.2	4.3	1.1	--	7.6	--	10.9	4.3	6.5	4.3	1.1	--	1.1	9.8	15.[illegible]

Calculations based on the data from Table 7 show that NEXCO respondents reported a 534 percent growth rate during the 1970-1980 period. In other words, export sales that ranged from $738 million to $1.5 billion in 1980 were $116 million to $241 million in 1970. (Actually, the growth rate for the 89 respondents may be understated somewhat because several NEXCO companies indicated a base year more recent than 1970.)

Employment

The estimates of $12 billion in 1980 export sales transacted by export trading companies supported approximately 480,000 American jobs, based on the Commerce Department's projection that every $1 billion in exports creates 40,000 jobs.

Export trading companies themselves employ as many as 52,000 persons, the majority of whom are American workers. This figure is derived from the data in Table 8 which records the employment statistics for 91 NEXCO respondents.

Table 8

Export Trading Company Employment
(By percentage of 91 NEXCO respondents)

	1-5	6-10	11-25	26-50	Over 50
U.S. sales offices (executives & professionals)	46%	31%	14%	5%	3%
U.S. offices (support and clerical)	35%	20%	20%	11%	6%
Overseas personnel	19%	12%	14%	3%	8%
Other	6%	1%	3%	--	6%

Translating these data into high and low ranges for employees, Table 9 shows that the 91 respondents reported a total workforce ranging from 2,531 to 4,820 persons in the United States and overseas.

Table 9

Export Trading Company Employment

	Number of Employees	
	Low Range	High Range
U.S. Sales Office (Executives and professionals)	633	1,290
U.S. offices (Support and clerical)	899	1,745
Overseas personnel	654	1,195
Other	345	590
TOTAL	2,531	4,820

Somewhat more than 60 percent of the workforce of these 91 companies are executives or support personnel working out of their U.S. sales offices. The remainder represent overseas employees or distributors, although the data do not appear to reflect all, or even a majority, of the foreign representatives used by the respondent ETCs.

Were the number of employees extrapolated in the same manner as the export sales volume above, there would appear to be approximately 27,000 to 52,000 domestic and foreign workers employed by U.S. ETCs, of which some 16,500 to 32,000 persons are employed in the United States.

III. Analysis of the Bank Export Services Act

Plainly, the ETC industry is a healthy and rapidly expanding industry that contributes in considerable measure to the promotion of U.S. exports. We want to enlarge our contribution to the export potential of the United States and believe that more active support from the Commerce Department and banking organizations will be helpful. Nonetheless, the U.S. should not permit this vital industry to be jeopardized by legislative proposals that would greatly alter the ownership of ETCs without any accompanying assurances that such changes will work for the good of the industry rather than merely disrupt it.

NEXCO believes the Bank Export Services Act offers a reasonable foundation on which to build banking industry support for the ETC industry. We agree with the approach adopted in writing H.R.6016 to amend the Bank Holding Company and Federal Reserve Acts to permit certain financial institutions to own ETCs.

As you may know, NEXCO testified in writing before the Senate Banking Committee in March 1981 in favor of bank participation in export trading companies. At that time, we recommended enactment of such authority with a ceiling of 20 percent ownership, in line with the recommendations of most Federal bank regulatory agencies, including the Federal Reserve Board.

In the meantime, NEXCO has studied the proposition of bank controlling ownership of ETCs and other forms of bank participation in our industry. After careful analysis of the proposed legislation to permit banking institutions to own ETCs, NEXCO has concluded that it can support such a proposal if the following three safeguards are incorporated into the legislation or into the

legislative history accompanying such legislation:

(1) Chinese Wall. There should be an explicit "Chinese wall" in the legislation designed to protect the privacy of financial information held by banks about their customers which are independent ETCs. NEXCO is concerned that the financial records maintained by banks about ETCs -- including detailed information on individual export transactions, the price of goods purchased from U.S. manufacturers and the price of goods sold abroad -- could be misused and the information leaked to bank-affiliated ETCs. NEXCO recommends that H.R.6016 specifically state that there must be strict confidentiality of information held by a bank with regard to the activities of independent ETCs.

(2) Equal credit terms. NEXCO believes there should be a strict requirement in H.R.6016 that the credit terms that banks extend to their own ETCs be no more favorable than the credit terms they extend to independent ETCs, other things being equal. We agree with the need for language in H.R.6016 placing bank holding company ownership of ETCs under the strictures of Section 23(a) -- Relations with Affiliates -- of the Federal Reserve Act. A subsidiary company should be able to obtain

credit on its own if it is operating on a sound business basis, and should not need to depend on the unique relationship with its parent.

However, Section 23(a) appears to cover only the amount of investment and volume of loans a banking parent may extend to affiliates. The section does not address the need for non-discriminatory credit terms. If Congress is going to permit banking institutions to own ETCs, it must assure that this take place in an environment of fair competition. To do anything less would set a terrible precedent at a time when Congress is examining the possibility of much broader bank deregulation.

As you know, the Senate-passed bill (S.734) contains in Section 102(b)(6) a provision on non-discriminatory credit terms. Section 102 (b)(6) prohibits banking organizations from extending credit to their ETCs or customers of their ETCs on terms more favorable than the credit extended to similar customers in similar circumstances (including non-bank ETCs). The language of the section, although entirely laudable in intent, appears to open the door for a variety of important exceptions. If banks refuse credit on any terms to non-bank

ETCs and their customers, Section 102 probably would not apply. And, if banks used their correspondent bank relationships to channel funds to ETCs on more favorable credit terms, that too may well escape regulation. The amendments are designed to assure that banks cannot discriminate against non-bank ETCs by a pattern of credit denials where the banks are confronted with similar bank and non-bank ETC credit applications in similar circumstances. Discrimination against non-bank ETCs through credit denials would be prohibited under Section 102 as amended. Similarly, banks could not discriminate against non-bank ETCs through their correspondent bank relationships.

(3) Office of Export Trading Company Affairs. The Federal Reserve Board should be directed to establish a formal Office of Export Trading Company Affairs. The Office would have responsibility for implementing the ETC Act, and would monitor bank holding company ownership of ETCs. NEXCO is convinced that most potential abuses of bank ownership of ETCs could be preempted by the mere existence of a specific Office of ETC Affairs at the Fed because banks would self-police their ETC operations and prevent potential abuses before they occur.

Such an office would also provide a beacon for independent ETCs which are unfamiliar with the banking industry and bank regulatory agencies.

Subcommittee Questions

The Subcommittee has asked several questions regarding specific language in H.R.6016. Following are NEXCO's comments:

(1) Use of bank names in the corporate names of ETCs. Whether an ETC is called the Chase Manhattan Trading Company or the XYZ Trading Company, few companies sophisticated enough to export will fail to know that it is affiliated with the Chase Manhattan Bank. In most instances, any benefits of affiliation with a bank or BHC will accrue whether or not the bank name appears on the front door. Obviously, the name can offer widespread recognition, often a benefit in competing with large foreign trading companies. We are not able to judge the merits of using a bank name from the viewpoint of purely bank-related problems. On balance, we suspect use of the bank name would be helpful to the bank-ETC, although that might place smaller independent ETCs at a competitive disadvantage.

(2) Importing. H.R.6016 would appear to deny bank-owned ETCs the authority to import. This requirement seems overly restrictive because ETCs, although they are largely export-oriented, occasionally engage in limited import operations,

either incidental to a specific export transaction or indirectly tied to normal export activities. The former occurs when an export sale is made contingent on an import sale in order to win business. The latter might occur when an ETC elects to import to a limited extent in order to maintain good relations with a foreign purchaser of U.S. exports. Table 1 showed that such import sales amount to a negligible portion of NEXCO ETC activities -- 11 percent of our sample reported imports accounting for less than one-fourth of their total operations and only 3.3 percent reported imports as more than half of their total sales. If Congress wishes to limit importing by bank-owned ETCs to incidental sales, it might best leave enforcement to the Federal bank regulatory agencies with a fairly wide latitude for interpretation.

(3) Manufacturing. H.R.6016 prohibits bank-owned ETCs from engaging in manufacturing. The Committee should understand that existing ETCs frequently provide services for their U.S. suppliers and foreign purchasers that might, under certain circumstances, be defined as manufacturing. A common example of this is the packaging or repackaging of a product

to meet overseas labeling requirements. The most obvious instance would entail translating product information and product labels from English to the language of the recipient country. In my own business, I frequently relabel processed agricultural goods using the registered mark of my company in lieu of the brand name of the U.S. manufacturers and processor. Moreover, my company translates the labels on processed foods into Arabic and other foreign languages as we do a substantial volume of business in the Middle East and Asia. Many NEXCO companies perform the same kinds of operations and services. It is not clear whether H.R.6016 would prohibit a bank-owned ETC from engaging in such essential operations. NEXCO recommends that the legislation be amended to permit "minor product modifications" which are essential to the marketing of a U.S. product overseas. Obviously, if these operations involve substantial manufacturing procedures, the Committee may well decide to prohibit such procedures.

(4) Taking title to goods. Table 1 also shows that the vast majority of NEXCO ETCs act as export distributors for U.S. manufacturers, buying goods on their own account and marketing them abroad. This is the essence of export management and export trading. If bank-ETCs are

denied this right, they will not be able to live up to the expectations of the legislation.

(5) Average size of ETCs. While ETCs vary in size from small to large concerns, Table 6 shows the average annual export sales volume in 1980 to have ranged from $5 million to $10 million.

(6) Geographical distribution of ETCs. Culled from the incomplete ETC listings of the Commerce Department, following is the state-by-state listing of ETCs in the United States:

State	No.ETCs	State	No.ETCs
Alabama	7	Missouri	13
Arizona	2	Montana	1
Arkansas	2	Nebraska	2
California	114	Nevada	1
Colorado	3	New Hampshire	2
Connecticut	24	New Jersey	53
Delaware	2	New York	189
D.C.	7	No.Carolina	15
Florida	65	No.Dakota	2
Georgia	28	Ohio	89
Hawaii	7	Oklahoma	10
Illinois	73	Oregon	17
Indiana	22	Pennsylvania	37
Iowa	4	Rhode Island	4
Kansas	3	So.Carolina	10
Kentucky	4	Tennessee	11
Louisiana	18	Texas	78
Maine	5	Utah	2
Maryland	12	Vermont	2
Massachusetts	48	Virginia	16
Michigan	26	Washington	29
Minnesota	26	W.Virginia	1
Mississippi	5	Wisconsin	18
		Puerto Rico	1
	TOTAL		1,110

IV. The Need for Deregulation of ETC Operations

Implicit in much of the discussion of ardent proponents of ETC legislation is the notion that they are seeking to transplant Japanese trading companies to the United States. They have repeatedly lauded the role of Japanese trading companies in promoting Japan's products abroad.

But they do not understand that Japanese trading companies are very different creatures from the entities contemplated in the export trading company legislation. The most obvious, but by no means the only, difference is that the larger Japanese trading companies regularly do the majority of their business dealings in the Japanese domestic market itself, selling Japanese and imported goods to Japanese purchasers. Exporting Japanese manufactured goods is not the principal business of these Japanese trading companies. For example, Mitsui's 1980 annual report states that exports are less than 17 percent of total sales.

While Japanese trading companies also account for the majority of Japan's export sales, clearly there are problems in trying to transplant commercial entities from one cultural environment to another. The United States cannot expect to duplicate the huge Japanese trading companies unless this country is prepared to alter its domestic economic, social and legal infrastructure. Since the majority of wholesale transactions, domestic and foreign, are made by U.S. manufacturers themselves, by clear choice rather than in response to circumstances, the Japanese model is in most respects an erroneous one for our legislators to use.

However, in two essential aspects the Japanese model is thoroughly appropriate.

One, it represents an efficient partnership between Japanese banks and Japanese trading companies. But as Table 10 shows, of the ten largest Japanese trading companies, none is controlled by a single bank, nor even a group of banks. Rather, Japanese trading companies are partners with groups of banks and other financial intermediaries which collectively own minority positions generally ranging from twenty to thirty percent. The average bank share in each of these Japanese trading companies is less than six percent, a far cry from the 100 percent bank ownership which the Export Trading Company Act would permit.

Two, Japanese commercial law does not arbitrarily isolate ocean freight forwarding from other elements of the international trade transaction. In contrast, in the United States, the shipping laws and associated regulations of the Federal Maritime Commission established ocean freight brokerage as the exclusive preserve of independent freight forwarders. Any serious ETC legislation should correct this regulatory limit on the growth of U.S. export companies. H.R.6016 does not, despite the fact that this proposed legislation itself recognizes freight forwarding as one of the basic activities of an ETC.

NEXCO recommends that ETCs be allowed to earn brokerage fees on the shipment of merchandise abroad. The current rules of the Federal Maritime Commission prevent parties having a beneficial interest in a product from being licensed to obtain brokerage fees on the shipment of goods. As most ETCs take title to the products they export, they are denied the right to profit from freight brokerage.

TABLE 10

Major Shareholders of the Largest Japanese Trading Companies

Firm Name	Dai-Ichi Kangyo Bank	Sumi-tomo Bank	Tokio M.&F. Ins.	Bank of Tokyo	Asahi M.Life Ins.	Fuji Bank	Taiyo Kobe Bank	Mitsui Bank	Taisho M.&F. Ins.	Sanwa Bank	Daiwa Bank	Tokai Bank	Nippon Life Ins.	Others		Total
Mitsubishi Corp.			6.2	4.2										Mitsubishi Bank	6.5	
														Meiji M.Life Ins.	5.0	
														Mitsubishi Trust	4.0	25.9
Mitsui & Co.				4.0		4.7		6.0	3.2				2.4	Mitsui Life Ins.	3.7	24.0
C. Itoh & Co.	6.8	5.3	4.0	3.6	3.3								3.6			26.6
Marubeni Corp.		3.5				6.5	4.5							Yasuda F.&M.Ins.	5.3	19.8
Sumitomo Corp.		6.1		3.6										Sumitomo M.Life Ins.	5.1	
														Sumitomo Trust	4.5	19.5
Nissho Iwai Corp.	6.7		3.9	3.5						7.2	4.0			Nippon M.&F.	3.2	28.5
Toyota Motor Sales		2.5			.4			2.6				4.8				10.3
Toyo Menka								4.1	5.2		3.2	8.0				20.5
Kanematsu-Gosho			9.2	10.0			8.8							Dai-ichi M.Life Ins.	4.4	
														Sumitomo M.Life Ins.	4.4	36.8
Nichimen			4.5	6.4						8.2	4.0					23.1
Daiei		3.8								3.8		3.8		Dai-ichi M.Life Ins.	3.4	14.8

Source: Omar Sawaf, Harvard Business School ,prepared for NEXCO
Data for 1977-1978

Nonetheless, ETCs perform many, if not most, of the functions of freight forwarders in an effort to provide their suppliers with an integrated export service. Existing FMC rules, thus, force ETCs to absorb the costs of their freight forwarding services and, at the same time, deny them the right to compete with foreign ETCs that enjoy profits from freight brokerage. As a result, our foreign counterparts are in a position to lower the selling price of their products abroad, take away potential sales from American ETCs, and still make a profit off of brokerage fees, freight rebates and special freight rates. The ability to arrange special freight rates and services and the right to earn brokerage fees have been a major positive factor in the growth of Japanese and European ETCs. It would be of equal help to U.S. trading companies in their growth.

Congress should remove this disincentive to export by enacting the following language:

> "Sec._____. Notwithstanding Sections 1, 16 and 41(b) of the Shipping Act of 1916, as amended, any export trading company engaged in the business of ocean freight forwarding, or any ocean freight forwarder affiliated with an export trading company, may be compensated by a common carrier by water for its services in connection with any shipment dispatched on behalf of the export trading company; provided that if the export trading company has acquired a beneficial interest in such shipment it has done so solely for the purposes permitted by this Act; and provided further, that an export trading company may not engage in the business of ocean freight forwarding unless it has been duly licensed pursuant to Section 41(b) of the Shipping Act of 1916, as amended."

The freight brokerage disallowance by the FMC has stunted U.S. ETCs and limited their profitability.

But this is only the tip of the iceberg of regulations which burden our industry and which will stymy bank-owned ETCs as well. At the root of the problem is the system of Federal regulation of ocean freights, based on the practice of negotiated freight rates administered by the FMC. For historical reasons, often no longer relevant, freight rates are more highly regulated here than abraod and are higher on exports than on imports.

NEXCO believes this regulatory barrier alone costs this country billions of dollars, first as an adverse surcharge on the U.S. balance of trade and second as an obstacle to our competing effectively in third countries with Japanese and European trading companies. Ocean freight is a crucial problem area in which my industry hopes bank participation will strengthen our efforts to life the regulations on freight rates and other burdensome rules which shackle U.S. exporters.

V. Conclusion

No one knows with certainty what the consequences of permitting financial institutions to own ETCs will be. NEXCO trusts that the legislation before Congress will stimulate broad bank interest in our industry and that the infusion of new capital and credit will enable us to grow even faster than in the past.

NEXCO members look forward to working with banks in an atmosphere of collaboration and constructive competition to increase U.S. exports. We welcome joint ventures and other forms of bank participation in our industry. Equity ownership is by no means the only -- nor the best -- kind of participation for banks that can enhance U.S. exports. At the same time, we anticipate renewed and improved cooperation with the Department of Commerce to ensure that

the legislation is not the first and last effort the government takes to enhance American export performance. It is the first step, but only the first, in that direction.

NEXCO is convinced that there is a need for greater participation and interest by banking institutions in the export activities of ETCs. At the same time, we are concerned that any legislation enacted by Congress not disrupt the existing positive contributions of independent ETCs to the export performance of the United States.

We believe that H.R.6016, amended as we have suggested in this testimony, would be an important and constructive step toward achieving these two goals. We are pleased to be able to support the Chairman's bill and look forward to working with the Subcommittee in the weeks ahead in order to construct final legislation that will stimulate U.S. export sales by American ETCs without, at the same time, detracting from the already substantial contributions that independent ETCs make to the U.S. balance of trade.

Thank you, Mr. Chairman, for this opportunity to express our views.

Chairman ST GERMAIN. Thank you, Mr. Chew.

As you so accurately pointed out, as far as the brokerage freight forwarding is concerned, we do not have any jurisdiction in that area. Was that point brought up on the Senate side?

Mr. CHEW. Yes. In written testimony we have commented this is a very important problem and a very limiting influence on the abilities of American export trading companies. You know, the traditional Yankee trader used to stand on South Street in New York with all the big sailboats negotiating the freight rates to Hong Kong.

Negotiation of freight rates is the very essence of our business, and we are not permitted to do this in the United States because of the burdens of regulation.

Chairman ST GERMAIN. The staff just pointed out to me that in the Senate report they took note of the point you made about the freight forwarding.

Mr. CHEW. I think it was in the Senate bill originally when Stevenson was drafting it. There has grown up a vested interest of the freight forwarders that they are the only ones who can receive this and they have a constituency protecting their interests.

I think the companies would merit from——

Chairman ST GERMAIN. They gave you advice. They said export trading companies wishing to render forwarding service may do so upon qualifying for and receiving a license under that act.

Mr. CHEW. Yes, sir, we can receive a license, but the legislation and the Federal Maritime Commission interpretation of it does not permit us to get freight brokerage, freight rebates on merchandise in which we have an interest.

It is a catch-22 situation.

Chairman ST GERMAIN. Mr. McKinney?

Mr. MCKINNEY. I have such a great amount of testimony here I hardly know where to begin.

One of the things that fascinated me going through all of this testimony is that everyone has something to say about the Fed's role. I am a little concerned about that.

Mr. Schaffer, on page 5, says that he recommends that the Federal Government be joined in this bill to make every effort to resolve borderline problems of the Fed in favor of trading companies and banks involved.

Mr. Lawlor, on page 8, says regs should be forceful and unambiguous but Congress should also be careful to avoid regulatory excess, also a reference to the Fed.

Mr. Cohen says at the bottom of page 6 that he starts to be concerned with Edge corporations and their roles also under the Fed.

Mr. Chew, coming from a different place and time, also talks about setting up an Office of Export Trading Company Affairs within the Fed. Obviously, to isolate it for fairness or one thing or another. Did I leave anyone out?

Yes, I did. Mr. McCouch on page 8, starts with the limit of investment, and goes on to acceptance and so on, acceptances to be extended to cover all depository institutions.

State bankers are concerned that the Fed will move into where angels fear to tread, particularly if you are State banking commissioner. I don't want to take too much of your time because you have been sitting here very patiently. If you could possibly send to the committee and to me—we don't always get the paper passed back and forth—your comments on the subject of the regulatory process by the Federal Reserve. That is the subject I am interested in.

I read your testimony and you all did a good job. I don't think there is a real dearth, but in writing legislation, that is far different than expressing an opinion, and I am very concerned.

We in this Congress have no control over the Fed, thank God, I say sometimes, and at other times I question. I don't believe you can have a 435-man central banker. But I do want to make sure that when this legislation goes out, as I said earlier, that the Fed does what we want them to do rather than leaving room for Fed interpretation, which is going to obstruct and obscure what the chairman and myself and the other members of this committee are trying to do with the legislation.

I would appreciate that, because I think it is a difficult and gray area. There is Federal interpretation, whether it be Edge corporations, assumption of assets, you name it, it rings throughout this whole process.

Of course, if I had my druthers, I would have the Department of Commerce running the whole show. Then we would do some trading. But I don't. I would like to get that from you. I appreciate your

testimony this morning. It is interesting information. You all have so many ideas.

Mr. SCHAFFER. It seems to me it is not so much the procedures, but it is the attitude of the Fed to be overzealous in restricting, carrying out restrictions against trade. It seems like political decisions are quickly made with the trader being the last one in mind as to the consequences.

For instance, recently when they imposed a sugar quota we had ships bringing sugar here which us traders had bought on the high seas, but now they couldn't accept them.

We have a political decision not to deal with the Soviet Union on an official basis, but yet we are selling grain to them without long-term contracts, which would make both sides feel better.

Mr. MCKINNEY. You are discussing the whole operation?

Mr. SCHAFFER. For a specific example, a freight forwarder in Hyattsville, Md., was slapped with a $2,000 fine by the Fed under the antiboycott regulations because he did not report that the exporter had received this letter, the so-called Kuwaiti kiss of death, where they ask you, are you dealing with Israel?

Now, it is a requirement. If the exporter or bank reported that, the Government knows about it. The freight forwarder is carrying out the mechanical procedures of loading the goods on the ship, but he didn't report it. The Fed knew about it and knew he didn't report it so they slapped him with a $2,000 fine.

Mr. CHEW. It was not the Fed, it was the Department of Commerce. Nevertheless, the comment is fair, because the antiboycott regulations are extremely burdensome to administer. We have one guy who does nothing else and we are a small company.

It is a terrible burden on export companies.

Mr. MCKINNEY. I have a friend with a shipload of lactose, and he doesn't know where to put into port. They will have to keep running around in circles because we suddenly changed our mind.

Mr. LAWLOR. I am concerned about the Fed getting overzealous. On the other hand, I appreciate the chairman's concern. As much as we would like to as traders deal without any regulation at all, I think one has to be concerned—as a former banker, I know—with the Fed role.

Let's not get involved in extremes here. Just as there are tradeoffs in maintaining the separation of banking and commerce, there are extremes that we have to avoid in this legislation.

So, let's walk the fine line and be concerned about overregulation of the Fed, but let's keep the Fed involved, too.

Mr. MCKINNEY. I agree. I think the chairman has done a fantastic job on this piece of legislation. I am looking for the middle ground to make sure that they are there, but I have a problem with the Fed. I enjoy them, they serve a very good breakfast, it is a beautiful building, but once in a while I get the feeling that they will never forget the executive banker who didn't build anything unless it was marble and you didn't have a rug unless it was deep red. Now banks are go-go organizations promoting trips abroad, get your china, get a Rolls Royce if you deposit $200,000.

Chairman ST GERMAIN. How many Rolls Royces do you have now?

Mr. McKinney. None. I get concerned once in a while when I am having breakfast at the Fed and they are still wearing celluloid collars that went out when my grandfather died.

I want to get the feeling between the real world and the marble world and it is difficult.

Chairman St Germain. Might the chairman suggest to his colleague that the Chair does not go to breakfast at the Fed. The Chair has the Fed come to his office. You get much more done that way.

Mr. Edwards. While our testimony from the Conference of the State Bank supervisors appears negative, it is because we concentrated on the adverse situation of the Federal Reserve Bank's impediment to the purpose of this act. That has been our major concern.

We do support the drive for the legislation. I would like to clear the record on that point. We think there are many potential benefits to the bill. Other than the Fed concern, regarding which will respond to Congressman McKinney in detail, the only other suggestion we have to enable our complete support of this legislation is that you expand it to allow smaller banks to invest indirectly through banker banks.

I don't want to leave you with the impression that the position of the bank supervisors is negative. We are behind it.

Mr. McKinney. If you would like to comment on that, too, go ahead. I asked the Secretary to comment on what his mechanism would be for the smaller banks.

Chairman St Germain. I would like to reassure the panel. You have been here for other hearings or have been represented by others. I am sure you are aware that the legislation after today's hearing will go into the markup phase and it is the intent of the Chair to take into consideration the testimony, the suggestions, and to introduce or probably work from a substitute when we go into markup, having consulted with the members of the subcommittee, and with Commerce, with Treasury, with the Fed. It all looks easy, but it isn't.

There is a lot of work that goes into this, and the legislation was introduced and certainly the main point is to attempt as much as possible not to pierce that veil—that screen between Commerce and banking—but we realize that as a result of testimony there are some instances where we may have to function in a different manner.

But this will all be taken into consideration. For that reason, your testimony and your suggestions are very helpful to us and to our staff, and as I said, the next step now will be to spend a few weeks drafting the amendments and looking them over, deciding which ones, and then fashioning the legislation so that we can, as you perhaps have noted, proceed on a bipartisan basis with as much unanimity as possible.

Mr. Cohen?

Mr. Cohen. Mr. Chairman, on behalf of the business coalition that has been working on export trading companies, we want to reiterate our appreciation. Once you have begun to move on this legislation, we have seen a major difference in terms of your involve-

ment, your leadership is going full speed ahead, and we are very appreciative of that.

Chairman ST GERMAIN. I assure you that together, Mr. McKinney and others on that side and my colleagues on this side, we all have one aim, one goal, and that is to proceed in a very deliberative manner.

We are hopeful that we can coalesce with the other committees so that the legislation can go on one track.

Then we go to conference with the Senate and finally get this into place and hope that the steps we take will be beneficial to our balance of trade and to the creation of jobs in this country.

So we thank you one and all. The subcommittee stands adjourned and again, thank you.

[Whereupon, at 12:50 p.m., the subcommittee was adjourned.]

[Mr. McCouch subsequently responded to a request of Congressman McKinney in regard to written suggestions on the Federal Reserve's role in implementing export trading company legislation. His letter of June 1, 1982, to Mr. McKinney follows:]

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EXECUTIVE DIRECTOR
M. CONDEELIS
WASHINGTON, D.C.

June 1, 1982

The Honorable Stewart B. McKinney
U.S. House of Representatives
106 Cannon House Office Building
Washington, D.C.

Re: Testimony on H.R. 6016

Dear Mr. McKinney:

At the May 25th hearing on H.R. 6016, the "Bank Export Services Act," you requested each of the panelists to present you with some written suggestions on the Federal Reserve's role in implementing Export Trading Company (ETC) legislation. On behalf of the Bankers' Association for Foreign Trade (BAFT), we are pleased to respond to your request.

From your questions and other remarks by Subcommittee members at the hearing, there appears to be a real concern that the Federal Reserve's opposition to bank participation in ETCs will lead it to adopt regulatory policies that might seriously frustrate successful implementation of the ETC legislation. From the Federal Reserve's past implementation of other banking legislation, including legislation that might not have enjoyed its wholehearted support, we believe the Federal Reserve will faithfully implement the ETC legislation in light of the expressed intent of the Congress. In this regard, however, we believe it extremely important that Congress be clear in directing the Federal Reserve or other agencies on policies that they are to follow in implementing the legislation.

Following are some areas where we believe Congressional direction may be especially helpful to successful implementation:

i. General Directions on Implementing Regulations

Section 105(d)(3) of S. 734 specifically provides that a Federal banking agency, in implementing its authority over bank investments in ETCs,

> "shall not impose any conditions...which unnecessarily disadvantage, restrict, or limit export trading companies in competing in world markets or in achieving the purposes of section 102 of this Act."

We believe the inclusion of similar directions in the House bill would also be helpful, as it would give the Federal Reserve clear directions against the adoption of overly restrictive regulatory policies. We would be pleased to work with you or your staff to develop similar language for H.R. 6016. In this regard, it might also be useful to develop a "Statement of Purposes" in the legislation that would explicitly direct the Federal Reserve to adopt policies that would encourage banking organization participation in ETCs, without compromising basic safety and soundness concerns. A similar approach was used in section 3 of the International Banking Act of 1978 (IBA) and proved to be extremely helpful in getting the Federal Reserve to liberalize its regulations governing Edge Corporations.

ii. Specific Directions on Implementing Regulations

Governor Wallich's testimony on behalf of the Federal Reserve Board included a number of Federal Reserve recommendations which, if adopted, could seriously frustrate successful implementation of the legislation. If the Committee is so disposed, we believe it may be important in the legislation or its legislative history to indicate clearly that these recommendations were not accepted, and should not be followed in the implementation stage. Following are the areas where we found adverse Federal Reserve recommendations to be most troublesome:

a) Controlling Interests

As detailed in our prepared statement, we believe it important that banking organizations be given the opportunity to acquire controlling interests in ETCs, based upon their own business judgment.

b) Joint Ventures Between Banks and Non-Banks

We believe it extremely important to establish clearly either in the legislation or its legislative history that joint venture ETCs between bank and non-bank firms are to be not only permitted but encouraged. Based on our discussions within BAFT, we believe the joint venture form of ETC will be most attractive to regional

and smaller banks and thus will be crucial to their participation. Moreover, joint ventures could well be the most prevalent form of bank participation.

c) Standards for Approval

We are opposed to any standards that would require a banking organization to meet a significant burden of proof in order to get its application approved. Essentially, we believe a banking organization should be allowed to make an investment based on its own business judgment unless the Federal Reserve can determine there is some specific adverse factor that outweighs likely export benefits and thus supports disapproval.

As a possible compromise between no prior Federal Reserve approval and Federal Reserve approval in all cases, the Congress could adopt the type of prior notification procedure that now exists in the Change-in-Bank Control Act (CBCA). Under the CBCA, a proposed controlling investor in an insured bank is required to file a prior notification with the appropriate federal banking agency that includes information about the investor and the nature of his investment. Unless the agency finds a specific statutory reason to disapprove the investment, it can be consummated after the expiration of a 60 day waiting period. A similar approach in H.R. 6016 would balance concerns about the difficulty of obtaining prior approval with concerns about appropriate regulatory oversight.

d) Taking Title to Goods

The hearing record clearly establishes that it will be necessary for ETCs owned by banking organizations to take title to goods. We believe that it should be made clear, as in section 105(d)(3) of S. 734, that any standards imposed by the Federal Reserve on taking title not unnecessarily disadvantage, restrict or limit ETCs in competing abroad or in achieving the legislation's purposes, and that special weight be given to the need to take title in certain kinds of trade transactions, such as barter transactions.

We appreciate this opportunity to provide you with our further suggestions, and would be pleased to work with you or your staff further on the legislation.

Sincerely,

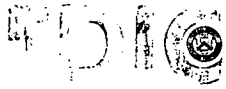
D McCouch

Donald G. McCouch
Past BAFT President

97-362 O—82——34

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR INCLUSION IN THE RECORD



OFFICE OF THE CHAIRMAN

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, D.C. 20429

May 17, 1982

Honorable Fernand J. St Germain
Chairman
Committee on Banking, Finance and
Urban Affairs
House of Representatives
2129 Rayburn House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

We appreciate the opportunity to present our views on H. R. 6016, the "Bank Export Services Act."

We have reviewed H.R. 6016 and have two comments. First, if there is to be legislation, we see no reason not to permit banks to invest directly in export trading companies, subject to the same limitations set forth for a bank holding company and the condition for state-chartered banks that the investment be permitted under state law. Prior approval of such investments by the bank's regulator would be required.

Second, with respect to the bill's grant to the Federal Reserve Board of approval authority for export trading company investments by bank holding companies or Edge Act Corporations, we believe a requirement for consultation with the state or federal supervisor of the lead bank in the holding company company would be appropriate.

Sincerely,

William M. Isaac
Chairman

U.S. GOVERNMENT
SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

MAY 19 1982

Honorable Fernand J. St. Germain
Chairman
Subcommittee on Financial Institutions Supervision,
Regulation and Insurance
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to present the views of the Small Business Administration regarding the influence of export trading companies on small business and their ability to export.

The purpose of your bill and of other Export Trading Company legislation is to increase the number of firms involved and to have a greater number of exports overall. An extremely effective way of accomplishing this is by providing small and medium sized firms with the assistance to become exporters.

In the statement which we have provided, the Agency urges the passage of ETC legislation with provisions to help small business. Thank you again for including this testimony.

Sincerely,

Marshall J. Parker
Assistant Administrator for
External Affairs

Enclosure

SMALL BUSINESS ADMINISTRATION

********** Washington, D.C. **********

STATEMENT
SUBMITTED BY
THE SMALL BUSINESS ADMINISTRATION
FOR THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
MAY 20, 1982

In his proclamation concerning World Trade Week - this very week - President Reagan reconfirmed the Administration's commitment to a free and fair world trading system, saying that:

> "The United States recognizes two of its most important responsibilities - to help restore growth and vitality to the world economy and to assure that all countries participate fully in international development. That is why America is committed to policies of free trade, unrestricted investment and open capital markets . . ."

Further he noted:

> "Government can set the framework for expanded trade, but government cannot make trade flourish. This enormous power lies with private enterprise. When American private citizens act to increase trade, all America will benefit."

Although small business has been a most significant force in creating new jobs in this Nation over the past ten years and now contributes 48 percent of the Nation's Gross National Product, the community as a whole has not recognized the great potential that export markets offer in terms of additional profits and increased employment. That does not mean however that there are not large numbers of small businesses currently involved in exports.

Three out of five firms which export have fewer than 100 employees. Eighty percent of the firms which have received the President's coveted "E" Award for Excellence in Export are small businesses. For those small firms that are continuing to grow and prosper, exports are becoming a substantial part of their business. An increasing number of SBA "Small Business of the Year" state award winners are exporters. The national winner selected last week, WAHPETON Canvas Company Inc., of North Dakota is doing over 35 percent of its business in exports.

Most of the large businesses in the U.S. are already involved in international trade. With the increasingly favorable climate being created by the Reagan Administration through the Economic Recovery Act and other Administration-proposed legislation, together with lessened paperwork requirements and unnecessary

Federal government regulation, the ability of these firms to compete successfully overseas will help decrease our past trade deficits.

There is within the small business community of manufacturing and service firms a large number which could export but are currently not doing so By broadening the base of U.S. exporters over the long term, even greater economic benefits can accrue to the private sector and through it to the Nation as a whole.

The Commerce Department estimates that there are about 20,000 U.S. firms which have the potential to export but are not doing so now. A very large number of these "export potentials" are small and minority businesses.

It is for this reason that the Administration strongly supports the concept of the Export Trading Company. It is the belief of the Small Business Administration that ETC's can be a constructive vehicle to increase the extent of small and medium size American business involvement in international trade.

We believe this because ETC's, particularly those which are members of bank holding companies, can provide the three services most needed by small and medium-size exporters.

A survey done by the National Federation of Independent Business for the SBA indicated that small manufacturers generally:

1) lack knowledge of where export markets exist;

2) lack internal skills within the business to undertake successful exporting; and,

3) lack financing necessary to make the product or provide the service for export and then get paid promptly for it.

Under the ETC legislation before this Committee and others, appropriate flexibility will be given to ETC's together with adequate safeguards to protect the general interest, which can over time provide the private sector support needed to increase small business exports. By combining products, skills, and resources within an ETC, these trading companies should attract the producers of goods and services, banks, export management companies, freight forwarders and others and thereby serve as a "one-stop center" for the comprehensive export service needed by the small business exporter.

We urge Export Trading Companies formed as a result of this legislation and others being considered to set up specific programs of export assistance which address the needs of the small business community of current or potential exporters. We are hopeful that such ETC's will survey the small business community in their geographical areas to set anticipated levels of small business export achievement for their ETC. The Agency looks forward to working with the Secretary of Commerce in providing whatever input he may need to help ETC's stimulate small business exports.

Small business has always been the backbone of the private enterprise system in the United States. Though they have many unique needs and requirements, they share one common ideal - the search for market challenges and opportunities for profit - without government intervention. As Secretary Baldrige has stated "Export Trading Company legislation can give the private sector the tools to do the job of which it is capable."

Through prompt enactment of Export Trading Company legislation small business can continue to "Help Build America" because "U.S. Exports Mean Jobs." Small and medium size business may well be the sleeping American export giant that, once awakened, will lead the nation in regaining its once dominant position in world trade.

AMERICAN
BANKERS
ASSOCIATION

1120 Connecticut Avenue, N.W.
Washington, D.C.
20036

EXECUTIVE DIRECTOR
GOVERNMENT RELATIONS

Gerald M. Lowrie
202/467-4097

May 17, 1982

The Honorable Fernand J. St Germain
Chairman
Committee on Banking, Finance & Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Attached you will find the American Bankers Association statement in support of H.R. 6016, "The Export Services Act".

We thank you for the opportunity to have our views included in the record for this legislation and as always we welcome the opportunity to assist you and your staff in passing this legislation.

Sincerely yours,

Gerald M. Lowrie

Enclosure

STATEMENT OF

THE AMERICAN BANKERS ASSOCIATION

The American Bankers Association appreciates the opportunity to submit a statement for the record in support of H.R. 6016, "The Export Services Act". The Association is a trade association with about 13,000 bank members, more than 90% of the full service banks in the country.

One need only view the United States' deficit in our balance of payments to realize that the U.S. must increase its exports of high quality goods and services today, if it is to have a chance of reducing our trade deficit tomorrow. The purpose of this legislation is to allow bank holding companies and Edge Act Corporations to invest in U.S. export trading companies which would perform export services for thousands of small and medium-sized producers. The concept of this legislation dates back to early 1978 when a Senate banking subcommittee recommended the establishment of U.S. export trading companies. Since then, numerous hearings have been held canvassing virtually every sector of the commercial, financial and governmental communities. We believe everyone can draw the same conclusion that establishing U.S. Export Trading Companies can improve our export performance. This fact has been further substantiated by studies conducted by the New England Congressional Caucus, Chase Econometrics, Security Pacific National Bank, and the U.S. Department of Commerce. Commerce Secretary Baldridge testified before this subcommittee, last month, that by establishing U.S. export trading companies, U.S. exports would increase by at least 5 percent and could go as high as 20 percent.

PARTICIPATION BY U.S. BANKING INSTITUTIONS

U.S. banking organizations can perform crucial services for an ETC.

Not only would they provide the much needed capital for the establishment of an ETC but would bring knowledge and experience in trade financing and ancillary services such as foreign exchange, trade documentation, warehousing, and letters of credit which are crucial to the success of an ETC. Additionally, banking organizations, through their extensive U.S. and foreign correspondent networks, can identify both a potential U.S. exporter as well as a foreign buyer. One only has to look at the success of some of the foreign trading companies to realize the important role that banking organizations would perform in an ETC.

The American Bankers Association envisions that U.S. banking organizations will be the nuclei of the new U.S. export trading companies, given that they are already involved in the research of foreign markets and have expertise in international trade and foreign regulations. Banking organizations will, in all probability, align themselves with manufacturers and delivery systems to form trading companies. Banking institutions can then package all their financial services at lower rates for a given sale since they will share in the ultimate profits of the ETC. These kinds of economies of scale could be especially important for small and medium-sized businesses that may lack the financial resources for selling and distributing abroad.

It is imperative that banking organizations be allowed to invest in U.S. export trading companies. Not only for the aforementioned expertise that they would provide but to insure that banking organizations could start on an equal footing with the emerging financial conglomerates.

Only two and a half months ago Sears announced that they would establish an export trading company and this announcement was followed by an announcement a week later that General Electric would set up an ETC. This

is a dramatic signal that these evolving financial (non-banking) conglomerates intend to establish an early, preemptive position as an ETC buyer of manufactured products in this developing business area, which is so closely allied with international banking for such commercial clientele.

Once established in their new position in servicing the export requirements of manufacturers, they will be in an obviously ideal position to also market an array of related financial services, e.g. advances or loans for production, cash management services, foreign exchange trading, etc. We would note also that if they do their own collections abroad, there will be little need for bank-backed letters of credit.

Assuming that these conglomerates are prepared to fully back their ETCs with extensive overseas marketing facilities (a reasonable assumption for companies like G.E. which already have them), they will be able to use their access to foreign buyers to leverage an entry into the foreign commercial lending markets by extending buyer credit. Thus, they potentially foreclose the banks from a source of future international banking business.

This poses a serious threat to existing banking functions. This legislation that would permit banking organizations to invest in ETCs is thus clearly needed — not so much to permit banks to diversify with non-banking areas, but to give them a chance to preserve present international banking business, and existing manufacturer/customer relationships. ETCs clearly will strengthen existing commercial lending relationships with manufacturing customers, by creating a new perception of the banks as important partners in the growth and profitability of their businesses.

EQUITY INVESTMENTS IN EXPORT TRADING COMPANIES

The ABA is aware of the concerns of this Subcommittee, the federal banking agencies, and other parties have expressed on the issues of controlling interests by a commercial bank in an ETC, and in maintaining the separation of banking and commerce. H.R. 6016 would provide a reasonable mechanism to address those concerns by allowing bank holding companies and Edge Act Corporations to invest in and control an ETC and the ABA endorses that concept.

Many commercial banks regardless of size or location, have had unfavorable experiences with investments in banking affiliates wherein they have had a minority and non-controlling equity position. This results from the fact that a bank is often — in such situations — not in a position to preclude such activities that it considers unsound simply because it does not have either voting or management control of an affiliate. No matter what public declarations are made, the parent bank is unable to avoid the implied responsibilities that go with any investment made by a bank in a non-controlled affiliate. Thus, the rationale is adopted that if implied financial responsibility attaches to a bank — regardless of ownership position — then bank management will undoubtedly decide to invest in firms where it has equal responsibility and ownership positions.

Not all commercial banks will want controlling ownership rights in an ETC firm for reasons of policy or philosophy best known to them — but this should not preclude other banks from having controlling ownership in such enterprises. We believe that controlling positions are best processed on a specific application or approval basis by the appropriate Federal banking agencies. H.R. 6016 would allow a bank holding company or an Edge Act Corp.

to control an ETC provided it has the approval of the Federal Reserve Board. In fact all banking institution investments in an ETC, as proposed in H.R. 6016, must be approved by the Fed.

While we are grateful to you in moving this legislation, the ABA would prefer the investment flexibility embodied in S. 734. All banks regardless of size, should have the opportunity to invest in an ETC should they so choose. This flexibility will enable any bank to meet the ever expanding needs of its customers as well as compete against non-banking financial conglomerates who may wish to offer a service that a given bank is prohibited from providing. In addition, bank owned ETC's should be given adequate capital flexibility so as to ensure a positive sales position by banks. The ABA would prefer that a 10% investment limit on capital and surplus be adopted and regulations designed that would permit banks to determine whether their investments would be in the form of loans or equity.

By statutorily capping a banking institution's investment in an ETC at 10%, we feel that the basic concept of "safety and soundness", embodied in current banking law would be preserved as well as eliminate the need to comply with Section 23A of the Federal Reserve Act restrictions and collateralization requirements.

It is clear to us that passage of ETC legislation is more important than the extent to which the legislation describes the approved organizational structure of an ETC. While the ABA would prefer a more flexible investment approach, we would not oppose a more structured investment format should this Subcommittee deem it a more appropriate way to proceed at this time.

BANKERS ACCEPTANCES

Section 3 of H.R. 6016 would amend Section 13 of the Federal Reserve Act by permitting U.S. member banks to increase their eligible acceptance limit to 150% of the bank's paid-up and unimpaired capital stock and surplus; and, with the permission of the Federal Reserve Board, increase the limit to 200% of such capital stock and surplus. In addition the coverage of this provision would be broadened to include nonmember banks and U.S. branches and agencies of foreign banks.

The new provision would specify that no more than 50% of a bank's authorized acceptances could be connected with domestic transactions, and would delete current language limiting domestic acceptances to 50% of a bank's capital stock and surplus. The current limitation on the issuance of unsecured acceptances for any one customer to 10% of the bank's capital and surplus would be retained. The new provision also would specify that, when banks enter participation agreements to share the obligations of an acceptance, the portion of the obligation retained or purchased by a bank would count toward that bank's acceptance limits. The existing requirement that acceptances involving domestic shipments must include shipping documents that convey or secure title would be deleted.

The Federal Reserve Board would be authorized to define any terms in order to carry out this provision.

The ABA fully endorses Section 3 of The Export Services Act.

PARTICIPATIONS

We have been told that the Federal Reserve opposes the participation provision of Section 3 but we urge the Committee to maintain this language

because we are convinced it will allow smaller community banks to participate in bankers' acceptance financing. Bankers' acceptance financing involves a bank placing its credit behind that of a customer who wishes to finance trade. A bank literally stamps a draft "accepted" and thereby agrees to pay the holder of the draft the face amount upon maturity. A customer can then raise funds by selling the draft, at a discount rate, to an investor. The investor is willing to purchase the draft because of his confidence that at maturity the bank will pay on its obligation.

Bankers' acceptance tend to be in large denominations and bought by institutional investors. In the past, the market has been limited to larger banks; however, we believe that the participation system envisioned in the bill will greatly expand the number of banks in the market.

An investor who wishes to buy a bankers' acceptance simply does not have the time or the resources to investigate the credit standing of America's 14,000 banks. It is for this reason that investors tend to limit their purchases of acceptances to banks whose names they are familiar with.

The participation provision of the bill permits a bank to exclude from its ceiling that part of an acceptance which has been participated to another bank. However, the participation would be covered under the ceiling of the participating bank, hence providing an absolute limit that the volumn of acceptances in the market at any one time. Credit participation is an integral part of our banking system and permits smaller banks to participate as partners with larger money center institutions.

Under the participation provisions of Section 3, availability of acceptance financing will be expanded and access to this market will be granted to smaller banks that could not otherwise participate.

For example, a customer of a bank comes in to seek acceptance

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financing. The bank knows its customer and believes him capable of repaying the acceptance and therefore agrees to finance a $10 million acceptance. The bank will stamp its acceptance on a draft which the customer can sell in the market. Upon maturity the bank will pay the holder of the accepted draft. The bank's funds would only be used in a case where the bank's customer is unable to pay the amount of the acceptance. To reduce this risk, under H.R. 6016, a bank would be permitted to seek other banks who are willing to share the acceptance. In this example of a $10 million acceptance, the principal bank might keep $5 million of the acceptance and participate the other $5 million remaining to another institution. They would share the fee of the acceptance and if the customer were unable to pay, the participant would have to pay the principal bank their share of the $10 million acceptance.

Similarly, the participation system envisioned in H.R. 6016 would permit smaller banks around the country to serve their local customers, like farm cooperatives, with trade financing needs. A smaller bank, whose name is not known to the money market investors will be able to use its correspondent bank to arrange a participation. This will allow the smaller bank to keep its customers and share the acceptance fee.

It has been suggested that for this type of participation to be valid, the accepted draft would have to bear the stamp not only of the principal bank but of all the other banks sharing the risk. This is unnecessary and impractical. An investor who is considering buying the accepted draft does so on his faith that the principal bank is a sound financial institution which will have the funds to pay on its obligation. Whether the funds come from the bank's customer, other sources of banks funds, or from the other banks that are participating in the acceptance is immaterial and is not part

of the investor's decision to buy the acceptance.

We see no safety or soundness question in the participation issue and believe it will be an important tool in financing American trade.

PRINCIPAL BENEFITS OF LIBERALIZATION OF THE ACCEPTANCE LIMITATION

The proposed liberalization of the 1915 acceptances limitations would have four principal benefits. The first benefit would be the enhanced ability of a regulated sector of our economy, Federal Reserve member banks, to compete with unregulated credit sources. Large commercial customers who would like to, but for various reasons do not, obtain bankers acceptances will usually obtain funds through sources of credit that are presently unregulated, such as commercial paper. In addition, acceptances are available from foreign banks which generally do not have any limitations on the acceptances that they create abroad in their own markets. Relief from the present limitations would permit member banks to compete more effectively with these unregulated credit sources.

Second, the availability of additional bankers acceptance financing would make a significant contribution to the United States' position as a center of international trade and finance. As previously indicated, the Section 13 limitations are no longer reasonable in light of the growth in international trade and finance over the past 65 years and the competition arising from unregulated foreign banks.

A third, and related, benefit is that an increase in this low cost form of financing may help to reduce the trade deficit which the United States has been experiencing. The favorable impact should be felt on both the export and import sides of the equation. Any relaxation in the Section 13 limitations would facilitate the ability of United States exporters to

obtain this low cost form of financing and, accordingly, to enhance their competitive positions vis a vis foreign exporters who are able to obtain acceptances from banks not subject to limitations.

Fourthly, banks across the country have told us that H.R. 6016 will significantly increase acceptance financing available to the smaller commercial customers. Currently banks that are active in the acceptance market are at or near their stautory ceiling so that they are unable to sell this product to this type of customer; however, with the ceiling increase and the participation system they will significantly increase the availability of this relatively inexpensive source of financing to smaller enterprises.

MONETARY POLICY

Finally, there has been some concern expressed by the Federal Reserve that too large an expansion of the acceptance market would somehow make the conduct of monetary policy more difficult. This view is simply without merit. Acceptance financing, even under this bill, will affect such a small part of the total economy that it could not possible affect the monetary aggregates. It will, however, give commercial banks a tool to compete with unregulated financial institutions.

CONCLUSION

As we have highlighted, the proposed changes to Section 13 of the Federal Reserve Act would enable United States banks to provide additional low cost financing for United States exporters, compete against unregulated credit sources, and strengthen the position of the United States as a trade and financial center — all without any adverse impact on individual banks,

the banking community, or the public.

We would like to take this opportunity to thank you and the other members of this Subcommittee for putting together a legislative package that would improve the United States' export posture by: 1) enabling banking organizations to invest in export trading companies and 2) raise the limit on eligible acceptances. While we do not see enactment of H.R. 6016 as a panacea for our export deficiencies, the ABA does feel that this legislation is a much needed boost in the right direction.

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

HILTON DAVIS
VICE PRESIDENT
LEGISLATIVE AND POLITICAL AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062
202/659-6140

April 22, 1982

The Honorable Fernand St Germain, Chairman
Subcommittee on Financial Institutions
Committee on Banking
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman,

On behalf of the Chamber of Commerce of the United States, I would like to share with you some of our views on your Bank Export Services Act (H.R. 6016). Let me begin by thanking you for taking the initiative and introducing a bill designed to increase bank involvement in export financing. Clearly, the United States must maximize the resources of all sectors, including banking, if we are to be competitive in the international marketplace.

Several House bills are intended to facilitate formation of export trading companies, a trading format that would encourage greater small business participation in the international arena by providing the full range of services necessary for exporting and by sharing the risks associated with international trade. The two key features of these bills are (1) clarification of the application of U.S. antitrust laws to export transactions and (2) provision for bank participation in export trading companies. It is the latter which H.R. 6016 addresses.

While fully recognizing your concerns about the potential risks of too much banking involvement in commerce, we urge you to reconsider your limitation of banking investment in export trading companies to banking holding companies and to Edge Act corporations. Is there not some formula for bank participation in export trading companies that would avoid concentrations of power resulting from combinations of banking and commercial firms? Our concern is based on the interest shown by a number of our small business members in participating in export trading companies with their banks. The following excerpt from the March 5, 1981 export trading company testimony by Milton Schulman, president of a small manufacturing company, on behalf of the Chamber before the International Finance Subcommittee of the Senate Banking Committee shows how small business sees this issue of bank involvement:

> I have a good relationship with my banker and he has been helpful to me in many aspects of the operation of our business. I do not see why the international commercial experience of our banks should not be shared with and used to benefit small exporters like us. Even though I am a relatively small business account for my bank, I still get good service. That gives me some confidence that I might get good service even though a relatively small account in a trading company in which my bank participates.

The services a bank can offer an export trading company might be significantly diluted if the trading company is too far removed from the bank itself. Furthermore, by restricting ownership to Edges and bank holding companies, are you not excluding many smaller and regional banks from establishing export trading companies? These banks might consider joint venturing with other similar-sized banks but lack the Edge or bank holding company vehicle to make the investment. Some direct bank involvement in export trading companies would overcome these shortcomings.

H.R. 6016 requires Federal Reserve approval of all bank holding company and Edge Act corporation investments in export trading companies. Aside from the bureaucratic burdens of having to clear every investment, no matter how small, there appears to be some inconsistency with banking law. Under the Fed's interpretation of the International Banking Act of 1978, an investment Edge Act corporation can own up to 20 percent and $2 million of any nonbanking company engaged in international business without Fed approval. Such an interest would be considered a portfolio investment for an Edge. An export trading company would, it appears, qualify for a 20 percent investment. Therefore, H.R. 6016 should, at a minimum, accord export trading companies comparable treatment, i.e., banking investments of less than 20 percent in export trading companies need not be cleared by the Fed.

We are concerned about the definition of an export trading company in H.R. 6016, which appears to limit a company's activities exclusively to exporting. The very nature of the exporting business necessitates activities beyond pure exporting, including some domestic and some import trade. In many cases, exports to developing countries and nonmarket economies are paid for in other

goods, in lieu of currency. In these instances, an export trading company must be prepared to provide import and third country trade capabilities. Therefore, we suggest that in the definition of "export trading company" the word "principally" be substituted for "exclusively."

So as not to inadvertently exclude any services necessary for export activities, we recommend that the definition of "export trading services" be amended to read "services including, but not limited to...." In addition, in the list of services in the definition, there is one glaring omission - insurance. Can we assume that this was simply an oversight? If not, it should be included.

As export trading companies begin to flourish in this country, the United States will start to reclaim its lost share of the world export market. If the U.S. Chamber can be of any further assistance in your efforts to refine H.R. 6016, please do not hestitate to call on our specialist, Howard Weisberg.

I will appreciate your consideration of our views and I request that this letter be in the hearing record on H.R. 6016.

Cordially,

Hilton Davis

Hilton Davis

c.c. Subcommittee members
Richard Still
Robert Fienberg

President
ROBERT L. McCORMICK JR., President/CEO
Stillwater National Bank and Trust Company
Stillwater, Oklahoma 74074

First Vice President
JAMES D. HERRINGTON, Board Chairman
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Second Vice President
PAUL H. BRINGGOLD, President
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President
JAMES R. TAYLOR, President/CEO
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Independent BANKERS ASSOCIATION OF AMERICA

WASHINGTON OFFICE

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June 4, 1982

Honorable Fernand J. St Germain
Chairman, House Subcommittee on
Financial Institutions Supervision
Regulation and Insurance
Room B-301, Rayburn House Office Building
Washington, D. C. 20515

Attention: Mr. Richard Still, Staff Director

Dear Mr. Chairman:

On behalf of the Independent Bankers Association of America (IBAA), I am pleased to submit this statement regarding legislation you introduced on March 31, 1982: H.R. 6016, the "Bank Export Services Act". We very much appreciate the Subcommittee's solicitation of our views on this important proposal. Although the Subcommittee has now concluded its hearings on this matter, we would hope that this submission could be made a part of the permanent hearing record on H.R. 6016.

The IBAA is the national trade association of community banks, representing approximately 7300 small and medium-sized commercial banks primarily located in small towns and suburban communities in 48 states, as well as in the District of Columbia. The typical IBAA member bank is in daily contact and has long-standing business associations with the small business and agricultural producers who form the primary group of intended beneficiaries of H.R. 6016. The most recently available data indicates that about 80 percent of small businesses rely on depository institutions to meet their credit needs, and that small and medium-sized commercial banks provide three-quarters of all the commercial bank loans extended to small business. The evidence also indicates that the overwhelming majority of small businesses

prefer to deal with a small, locally based bank--the report of the Interagency Task Force on Small Business Finance, transmitted to Congress in February of this year, stated that its survey of small business found that "more than two-thirds of the respondents believe that the size and location of a bank affects its willingness or ability to meet the respondent's credit needs....More than two-fifths said they prefer to deal with a local bank, while another two-fifths prefer a small bank and less than one-fifth a large one."

A key purpose of H.R. 6016 is to encourage the development of export activities among America's small businesses through bank financial and advisory involvement. The IBAA believes that the legislation can best accomplish this goal by building upon and enhancing the strong and mutually beneficial relationships which already exist between the small business sector and small and medium-sized banks. Unfortunately, as introduced, H.R. 6016 would tend to force the small business interested in entering the export field to abandon its existing banking relationship and seek out the assistance of a large and probably distant commercial bank. This is due to the legislation's restriction of export trading company investment authority to bank holding companies and Edge Act Corporations. Although many independent banks are moving to adopt the holding company form of organization, this restriction would prevent thousands of IBAA members from participating in the capitalization and operation of export trading companies.

It is our belief that the most effective means of correcting this oversight, consistent with H.R. 6016's concern for the safety and soundness of commercial banks and the establishment of unitary regulatory oversight of export trading companies within the Federal Reserve Board, would be to permit bankers' banks to invest in export trading companies. Although the first bankers' bank was created in 1968, the movement to form this type of correspondent institution has only gained considerable momentum since 1980. This is due to the Depository Institutions Deregulation and Monetary Control Act's enactment of statutory authority permitting national banks and state Fed member banks to invest in a bankers' bank if state law permits state-chartered banks to make such an investment, and making bankers' banks eligible for Federal Reserve membership. Bankers' banks are now operating in Colorado, Minnesota, Nebraska, Ohio, Texas, and Wisconsin, and are being developed in Michigan, Virginia, Pennsylvania, Oklahoma, Louisiana, Missouri, Kansas, North Dakota, California and Florida. The IBAA views this trend as

one of the most exciting and innovative developments for our portion of the commercial banking world, and one which could only be enhanced by authorizing bankers' banks to participate in export trading companies.

The Federal Reserve has already set forth a clear definition of bankers' bank, requiring an institution to meet all the following criteria: 1) It is organized solely to do business with other financial institutions and their directors, officers, and employees; 2) It is owned primarily (75% or more) by the financial institutions with which it does business; and 3) It does not do business with the general public, and limits its loans to individuals to no more than 10% of total assets and its deposits from individuals to no more than 10% of total liabilities. Within these restrictions, a bankers' bank is permitted to exercise "all the usual and incidental powers and privileges belonging to the business of correspondent banking", including all of the traditional interbank services as well as serving as the pass-through agent for the reserves of non-Fed member institutions.

The Senate-passed counterpart to H.R. 6016, S. 734, already permits bankers' banks to invest in export trading companies. We strongly urge that the House take parallel action. However, we believe that the Senate's definition of bankers' bank is unnecessarily restrictive and out of step with both the definition of bankers' bank contained in the 1980 Deregulation and Monetary Control legislation and that promulgated by the Federal Reserve. S. 734 requires that the stock of a bankers' bank be owned exclusively by other banks (with the exception of directors' qualifying shares required by law) and that such bank be engaged exclusively in providing banking services to other banks and their officers, directors and employees. We would suggest that a definition be adopted which, while requiring that the bankers' bank be organized solely to do business with other financial institutions and that it not do business with the general public, only stipulates that it be owned primarily by the financial institutions with which it does business and that its deposits from and loans to individuals should be limited in a manner consistent with Federal Reserve regulations. This modification in definition will not work a fundamental change in the bank's operation nor will it affect the safety and soundness of those banks capitalizing the bankers' bank. But it will permit bankers' banks operating under current law to move directly into export trading activities.

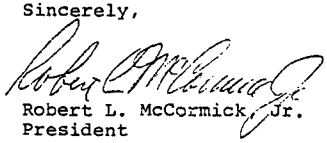
Before leaving this aspect of H.R. 6016, we must note that we have no objection to suggestions which have been made to the Subcommittee that banks below a certain level of assets be permitted to invest directly in export trading companies. However, as a practical matter, few banks within this category possess the expertise or could contribute the level of capital necessary for successful entry into the export field. We view our suggested bankers' bank amendment as the most effective means of facilitating small bank participation in export activities, as well as being consistent with your desire to separate the export activity from the deposit-taking function, and presenting no problems in terms of Federal Reserve oversight.

Turning to Section 3 of H.R. 6016, we believe that its higher permissible levels of bankers' acceptances and its allowance of participation agreements are sound and necessary to facilitate the increased levels of trade which will hopefully result from the enactment of this legislation. In particular, the participation provision will permit small banks to meet the trade financing requirements of their manufacturing and agricultural clientele. However, we are constrained to object to that portion of Section 3 which would extend Federal Reserve limitations on bankers' acceptances to non-member depository institutions. We believe that this provision violates long-standing public policy that Federal Reserve supervisory authority should not be extended to non-member depositories, and in doing so wreaks unjustified damage on our dual banking system. The IBAA strongly urges that this portion of Section 3 be deleted and that we continue to rely on the expertise and wisdom of state banking supervisors in regard to the oversight of non-member banks.

In conclusion, Mr. Chairman, we wish to commend you for your leadership and foresight in advancing this legislation, which can do so much to enhance the marketability of the products of American small business and agriculture and to redress this nation's balance-of-payments difficulties. Although the IBAA continues to believe that banking and commerce should be strictly separated insofar as domestic trade is concerned, the prudent approach taken with respect to the export sector under H.R. 6016 should assure that the safety and soundness of America's financial system is not weakened.

We stand ready to assist the Subcommittee in every way possible to improve and advance this legislation, and again thank you for the opportunity to express our views on this important subject.

Sincerely,



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June 21, 1982

Honorable Fernand St Germain, Chairman
House Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
B-301 Rayburn House Office Building
Washington, DC 20515

Attention: Mr. Richard Still
Staff Director

Dear Chairman St Germain:

Your staff has been kind enough to permit the IBAA to review a copy of the Amendment in the Nature of a Substitute to H.R. 6016, which shall be the object of Subcommittee mark-up on June 22.

We have taken note that Section 2(3) of the Substitute would insert a new paragraph 14(D)(iii) to Section 4(c) of the Bank Holding Company Act which, solely for the purposes of the paragraph, defines "bank holding company" in a manner which encompasses and is consistent with the bankers' bank exemption language contained in Section 103 of the Monetary Control Act of 1980, and the Federal Reserve's regulations implementing that provision.

We very much appreciate the appearance of this new language in the Substitute, in response to our prior communication regarding H.R. 6016 dated June 4. This language will permit those bankers' banks now in operation to move directly into export trading company activities, should they so desire. H.R. 6016 has thus been perfected in a manner which is consistent with your wish to separate export activity from the deposit-taking function and to retain unitary ETC regulation within the Federal Reserve, while simultaneously advancing the bill's major purpose of promoting greater export activity among small businesses and agricultural producers.

It is also our understanding that the Subcommittee staff is working closely with the Conference of State Bank Supervisors to resolve their concern, and ours, regarding Section 3 of H.R. 6016 in a manner which is satisfactory to all affected parties. We are pleased to hear that progress is being made on this issue of Federal Reserve authority over non-member depositories.

In conclusion, let me again state the IBAA's support for the manner in which bankers' bank participation has been assured by the language of the Substitute. We would only suggest that, at the appropriate time, Report language briefly describe this provision's relationship to Section 103 of the Monetary Control Act and the ensuing Fed regulations, and also make clear that it should in no way be read as a requirement that bankers' banks be obligated to establish a holding company form of organization to invest in an export trading company.

Again, the IBAA stands ready to assist the Subcommittee in advancing this much-improved legislation.

With best wishes.

Sincerely,

Robert L. McCormick, Jr.
President

RLM/nls

INSTITUTE OF FOREIGN BANKERS

COMMENTS

SUBMITTED TO THE

HOUSE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

ON

H.R. 6016

The Institute of Foreign Bankers (the "Institute"), whose membership includes more than 215 foreign banks maintaining offices in the United States, from over 50 foreign countries, respectfully submits the following comments on the proposed provisions of H.R. 6016, currently pending before the House Banking Committee.

Section 3 of H.R. 6016 would amend Section 13(7) of the Federal Reserve Act (12 U.S.C. § 372), among other things to increase the aggregate limitation on member banks' eligible bankers' acceptances ("BAs") which are outstanding at any one time to 150 percent of capital stock and surplus (which amount could be increased to 200 percent with FRB permission). Institute members whose U.S. offices are active in acceptance financing of international trade would welcome the stronger domestic bank participation in the secondary market in eligible BAs that would result from the relaxation of member banks' outdated aggregate amount limitations under Section 13(7) of

the Federal Reserve Act. The Institute therefore favors this aspect of Section 3 of H.R. 6016.

However, Section 3 of H.R. 6016 would also extend these same supervisory limitations to nonmember depository institutions, including state-licensed agencies and branches of foreign banks, and in the case of such state-licensed agencies and branches would give FRB the authority to determine a fictitious capital and surplus "equivalent" against which the supervisory limitations of Section 13(7) would apply. The Institute believes that the proposed extension of Section 13(7) to nonmember depository institutions, including state-licensed agencies and branches of foreign banks, would not further any supervisory, monetary policy, or competitive equity purpose. However, if Section 13(7)'s supervisory limits on member banks' eligible acceptances are extended to U.S. offices of foreign banks, the Institute urges that the language of Section 3 of H.R. 6016 be revised to clarify that the limitations would be measured against the dollar equivalent of the foreign bank's capital and surplus.

Because of indications at the Committee's May 25 hearing that the limitations may well be extended to nonmember depository institutions, we will first address the reasons for our proposed amendment and then identify the principal reasons why we believe that such an extension is unnecessary and undesirable.

97-362 O—82——36

1. Clarification of Statutory Language of Section 3 of H.R. 6016 If Section 13(7) is Extended to U.S. Branches and Agencies of Foreign Banks.

If the provisions of Section 13(7) of the Federal Reserve Act are to be extended by Congress to nonmember depository institutions, including state-licensed branches and agencies of foreign banks, the Institute urges that, at the very minimum, the proposed statutory language be revised to clarify that in the case of U.S. branches and agencies of foreign banks, the amount limitations will be determined by the dollar equivalent of the foreign bank's capital and surplus, rather than by a fictitious "capital equivalency" measure determined by FRB, as is implied and would be invited by the existing language of Section 3 of H.R. 6016.

The principal concerns of the Institute on this issue have already been communicated fully to the FRB, in meetings and other discussions between counsel for the Institute and FRB staff, and in letters dated April 8 and May 12, 1982 from counsel for the Institute to Mr. John Ryan, Director of FRB's Division of Banking Supervision and Regulation (copies attached). Various associations of domestic banks, including BAFT and the New York Clearing House Association, have also communicated their support for the Institute's position on this issue to FRB, and their concern for the principle which would be established if a measure other than the foreign bank's capital and surplus were used.

The Board of Governors, at its closed meeting of May 17, considered the points raised by the Institute and determined that in the case of U.S. branches and agencies, the dollar equivalent of the foreign bank's capital and surplus is the only standard consistent with existing legislation, national treatment, and established international practice. This determination was communicated directly to the Committee by Govenor Wallich in his testimony of May 19. Similarly, both CSBS and BAFT have expressed their support for this determination by FRB in their testimony to the Committee of May 25.

For the above reasons, together with the concerns outlined in our attached letters to FRB, if the provisions of Section 13(7) are to be extended to U.S. branches and agencies of foreign banks, the Institute urges the Committee to revise the language of Section 3 of H.R. 6016 to reflect the recent determination by FRB, clarifying that in the case of U.S. branches and agencies of foreign banks, the eligible acceptance limitations under Section 13(7) of the Federal Reserve Act will be measured by the dollar equivalent of the foreign bank's capital and surplus. We recommend for this purpose language we believe has been considered by FRB (suggested in our letter of April 8, 1982 to Mr. Ryan), which is as follows:

[Proposed changes to the language of Section 3 of H.R. 6016 (omitted language in brackets; new language underscored):]

* * *

(B) No such institution shall accept such bills in an amount equal at any time in the aggregate to more than one hundred-fifty percent of its paid up capital stock and surplus [or its equivalent, as defined by the Board,]. In the case of a United States branch or agency of a foreign bank, <u>this limitation shall be determined in accordance with the principles set forth in Section 4(b) of the International Banking Act of 1978. In the case of depository institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply</u>.

(C) The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any depository institution or United States branch or agency of a foreign bank which is subject to reserve requirements to accept such bills in an amount not exceeding at any time in the aggregate two hundred percent of its paid-up and unimpaired capital stock and surplus or its equivalent, as defined by the Board[, in the case of a United States branch or agency of a foreign bank] <u>pursuant to subparagraph (B) of this paragraph</u>.

* * *

(G) In order to carry out the purposes of this paragraph, the Board may define any of the terms used in this paragraph[, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply].

2. Extension of Section 13(7) of the Federal Reserve Act to Nonmember Depository Institutions.

The extension of Section 13(7)'s provisions to nonmembers was not contained in the earlier House version of this legislation, H.R. 2438, but rather has been recently added, reflecting proposed language suggested by FRB in its comments on H.R. 2438, ostensibly for reasons of monetary policy and related reasons of competitive equity.

The provisions of Section 13(7) of the Federal Reserve Act are concerned not with reserve requirements and monetary policy, however, but rather with supervisory limitations applicable to banks that are members of the Federal Reserve System. Congress has twice already determined that Section 13(7) of the Federal Reserve Act and other member bank regulations related to safety and soundness should not be extended to state nonmember depository institutions along with federal reserve requirements: in 1978, when Congress rejected FRB's requested authority to apply member bank restrictions to state-licensed agencies and branches and instead enacted IBA Section 7; and, again in 1980, when Congress enacted the Monetary Control Act.

The extension of Section 13(7) of the Federal Reserve Act embodied in the current proposed language of Section 3 of H.R. 6016 is therefore directly inconsistent with the well-established view of Congress that the dual banking system

already provides effective supervision of state-chartered and state-licensed banking operations, and need not be dissolved solely on account of subjecting nonmember depository institutions to federal reserve requirements.

The proposed extension of FRB's supervisory jurisdiction over nonmember depository institutions is furthermore unnecessary to the effective implementation of monetary policy by FRB. The eligible acceptance financing activity of nonmember depository institutions, including U.S. branches and agencies of foreign banks, has relatively little significance for domestic monetary policy. According to the Summer 1981 issue (p. 42) of the FRBNY Quarterly Review, over 50 percent of total acceptances outstanding since 1974 are acceptances that finance trade between foreign countries. Acceptances generated by third country trade have no direct implications for domestic monetary policy because funds are not advanced by the banks into the U.S. money stock. The same may be said about acceptances financing foreign exporters to the U.S., which account for at least another 20 percent of aggregate acceptances outstanding. Most acceptances issued and discounted by U.S. offices of foreign banks are either foreign country trade acceptances or acceptances that finance U.S. imports, the discount proceeds of which are advanced outside the U.S. Eligible acceptance financing by other nonmember depository institutions, although perhaps characterized by a relatively

higher proportion of domestic trade and U.S. export acceptances, is insignificant.

Regarding competitive equity concerns, the relaxation of member bank supervisory limitations applicable under Section 13(7) of the Federal Reserve Act embodied in Section 3 of H.R. 6016 will, we believe, effectively remedy whatever competitive disadvantage member banks have recently experienced relative to nonmembers in the marketplace on account of those limitations.

For these reasons, we believe that the proposed extension of FRB supervisory jurisdiction to nonmember depository institutions is not justified by either monetary policy or competitive equity concerns.

* * *

The members of the Institute appreciate the Committee's consideration of the above comments on this important matter.

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April 8, 1982

By Messenger

Mr. Jack Ryan
Director
Division of Bank Supervision
& Regulation
Board of Governors of the
Federal Reserve System
20th St. & Constitution Ave., N.W.
Washington, D.C. 20551

Re: H.R. 6016; Bankers Acceptance Restrictions

Dear Mr. Ryan:

This letter follows up with a summary, as promised, of the points we discussed at the meeting Tuesday morning between Steven Lucas and me on behalf of the Institute of Foreign Bankers and yourself, Fred Dahl, Gil Schwartz and Tony Cole on behalf of FRB.

As you know, we believe there are a number of reasons why FRB should not propose or favor at the present time legislation that would extend the provisions of Section 13(7) of the Federal Reserve Act to U.S. agencies and branches of foreign banks. We are separately forwarding a short statement of these reasons, which were touched upon in our meeting Tuesday morning.

Responding to your advice that the Board is unlikely to accede to this view, we are addressing in more detail in this letter the points we discussed regarding the proposed legislation's provision for FRB

authority to apply the capital and surplus limitations to U.S. agencies and branches of foreign banks based on a measure, determined by FRB, of such offices' "equivalent" capital and surplus.

The following points capture the essence of the rationale underlying our position that if Section 13(7) of the Federal Reserve Act is extended to U.S. agencies and branches, Section 13(7)'s aggregate amount limitations should be measured only against the dollar equivalent of the foreign bank's capital and surplus:

1. Existing Legislation. In deference to equal national treatment, Section 4(b) of the International Banking Act of 1978 ("IBA") applies the current BA ceilings applicable to national banks under Section 13(7) to federal agencies and branches, with the ceiling ratios applicable to the capital and surplus of the foreign bank. Thus Congress has already established in IBA Section 4(b) the appropriate measure for national bank limitations measured by capital and surplus, including eligible BA limits, as such limits are applicable to federally licensed agencies and branches of foreign banks. If such member bank limitations are extended to state-licensed agencies and branches of foreign banks as well, the limitations should be applied as already determined by Congress in IBA.

2. International Practice. If the U.S., a recognized leader in bank and commercial regulation, were to depart from the general rule, recognized in IBA, of treating offices of foreign banks as part of the larger banking institution, such departure would risk influencing foreign supervisors of non-U.S. branches of U.S. (and other non-local) banks to do likewise. Such restrictions on foreign banking could constitute a setback for international banking generally. We understand that associations of domestic U.S. banks, including the New York Clearing House Association and the American Bankers Association, share the Institute's concern with the fact that the proposed legislation would require or invite FRB to depart from this well-established principle, and may have communicated this concern to FRB.

3. Discriminatory Treatment. Any limit other than the foreign bank's capital and surplus would be inconsistent and discriminatory toward foreign banks. Member banks' limits are measured by their capital and surplus, even though the large U.S. member banks which are most active in the BA market maintain well in excess of 50% of their banking operations outside the United States. Thus if foreign banks are required to limit their eligible BAs outstanding in relation to their banking activities in the U.S., then equal treatment would require an imputed capital and surplus base, reduced to disallow foreign assets, for domestic banks with foreign branches.

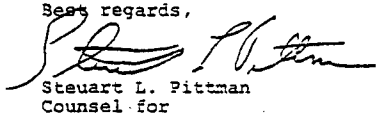
4. Competitive Considerations and Effect on Existing Business. U.S. agencies and uninsured branches of foreign banks are concentrated in wholesale and international banking, and the current volume of eligible acceptance financing of international trade transactions at such offices reflects this business orientation. If the aggregate amount limitations of Section 13(7) of the Federal Reserve Act were extended to U.S. agencies and branches of foreign banks, and FRB were, under the current provisions of H.R. 6016, to determine that the ratio should apply to a small "equivalent" measure of a foreign bank's capital and surplus that is attributable to its U.S. agency or branch, existing levels of eligible acceptance financing of international trade transactions at U.S. agencies and branches would be sharply curtailed, severely damaging their existing business and their ability to continue to fulfill the important and beneficial international trade finance role they have assumed in the United States. U.S. agencies of foreign banks would be particularly damaged by such unduly restrictive limits because their existing international trade finance business could not be funded from comparable alternative domestic sources of funds. We are aware of no justification for inflicting such severe damage on the international banking business of U.S. agencies and branches of foreign banks, or for causing such a severe reduction in existing levels of eligible acceptance financing by such offices, which will adversely affect the current breadth and strength of the secondary market. U.S. member banks have not requested such treatment and, we understand, are prepared to take the position that the capital equivalency

issue raises no substantial competitive advantage issues. FRB's concern with ensuring, for monetary policy purposes, the existence of a limit (in addition to the limitations of the marketplace) on an institution's provision of eligible acceptance financing would be satisfied by using the foreign bank's capital and surplus as the measure.

* * *

Our proposal would be implemented by the attached changes in H.R. 6016.

Best regards,



Steuart L. Pittman
Counsel for
The Institute of Foreign Bankers

SLP/pnh

Attachment

cc: Mr. Frederick R. Dahl
Gilbert T. Schwartz, Esq.
Mr. Anthony F. Cole
Mr. David John
Mr. H. Patrick Kennedy

Attachment to April 8, 1982 letter to Jack Ryan from Shaw, Pittman, Potts & Trowbridge on behalf of the Institute of Foreign Bankers

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Proposed changes to the language of Section 3 of H.R. 6016 (omitted language in brackets; new language underscored):

* * *

(B) No such institution shall accept such bills in an amount equal at any time in the aggregate to more than one hundred-fifty percent of its paid up capital stock and surplus [or its equivalent, as defined by the Board,]. In the case of a United States branch or agency of a foreign bank, this limitation shall be determined in accordance with the principles set forth in Section 4(b) of the International Banking Act of 1978. In the case of depository institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply.

(C) The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any depository institution or United States branch or agency of a foreign bank which is subject to reserve requirements to accept such bills in an amount not exceeding at any time in the aggregate two hundred percent of its paid-up and unimpaired capital stock and surplus or its equivalent, as defined by the Board[, in the case of a United States branch or agency of a foreign bank] pursuant to subparagraph (B) of this paragraph.

* * *

(F) In order to carry out the purposes of this paragraph, the Board may define any of the terms used in this paragraph[, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply].

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By Messenger

May 12, 1982

Mr. John E. Ryan
Director
Division of Banking Supervision
and Regulation
Federal Reserve System
Constitution Ave. & 20th St., N.W.
Washington, D.C. 20551

Re: H.R. 6016; Bankers' Acceptance Restrictions

Dear Mr. Ryan:

Further to our telephone conversation today, it may be useful to put in writing on behalf of the Institute of Foreign Bankers the points we discussed, additional to those in our two letters to you of April 8, regarding the monetary policy significance of proceeds from the sale of eligible BAs issued by U.S. branches and agencies of foreign banks.

First, over 50% of total acceptances outstanding since 1974 are acceptances that finance trade between foreign countries. (See p. 42 of the FRBNY Quarterly Review for the Summer, 1981). Acceptances generated by third country trade have no direct implications for domestic monetary policy because funds are not advanced by the banks into the U.S. money stock. The same may be said about acceptances financing foreign exporters to the U.S. which account for at least 20% of the outstanding acceptances. Most acceptances issued and discounted by U.S. offices of foreign banks are either foreign country trade acceptances or acceptances that finance U.S. imports, the discount proceeds of which are advanced outside the U.S.

Whatever small part of the acceptance market generated by foreign banks, which does not fall into one of these two categories, must be further reduced by some estimate of the quantities representing the difference between the methods at issue of determining the capital base to which the new ratio ceilings would apply. If FRB uses a different method of determining the capital base for foreign banks than for domestic banks, the monetary policy issue, already insignificant in quantity for reasons stated above, is further reduced by the quantities allowed to foreign banks under whatever method the FRB may devise under a "capital equivalency" criteria.

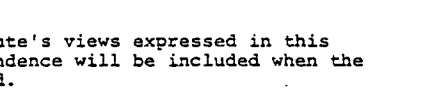
We therefore believe that eligible acceptance activity of U.S. offices of foreign banks is not significant to U.S. domestic monetary policy.

Second, and equally important, the imposition of restrictive limits on the eligible dollar acceptance activity of U.S. offices of foreign banks may well serve only to drive this activity offshore, to the detriment of U.S. financial centers and of U.S. control over dollar acceptance activity. If as a result, significant secondary markets in dollar acceptances to finance trade between foreign countries and with the U.S. were created in the Eurodollar market, where dollar liabilities may be created without FRB restraint, FRB would lose its ability to monitor and control the market in these types of acceptances. This result would appear directly contrary to what FRB was trying to achieve with its regulations facilitating the establishment of IBFs in the United States.

I think you understand from our conversation that a decision to use a fictitious branch-related capital base would be extremely disturbing and surprising to foreign banks from some countries. They are aware of the domestic bank association views, conveyed to FRB, which effectively remove any competitive advantage issue.

We trust that the Institute's views expressed in this letter and our earlier correspondence will be included when the issue is considered by the Board.

Best regards,



Steuart L. Pittman

SLP/em
cc: Gilbert T. Schwartz, Esq.
Dennis J. Bunyan, Chairman, IFB

National Association of Export Companies, Inc.

The National Organization of Export Trading and Export Management Companies

200 Madison Avenue, New York, NY 10016
212-561-2025

June 3, 1982

The Honorable Fernand J. St Germain
Chairman
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
B-303 Rayburn House Office Building
Washington, D.C. 20215

Dear Chairman St Germain:

On behalf of the National Association of Export Companies (NEXCO), I want to thank you and the Subcommittee on Financial Institutions Supervision, Regulation and Insurance for the opportunity to testify on May 25 with regard to the Bank Export Services Act (H.R.6016) which we endorse.

I would like to augment my remarks on two amendments to H.R.6016 which NEXCO recommended to the Subcommittee at the May 25 hearing:

(1) A confidentiality clause to protect information held by banking institutions about the export activities of independent export trading companies (ETCs).

(2) Language to require banks to extend credit to independent ETCs and bank-affiliated ETCs on equal terms under comparable situations.

Confidentiality of Information

Simple fairness dictates that information held by banking institutions about the export activities of independent ETCs be kept strictly confidential behind a "Chinese wall" separating that information from other bank offices or subsidiaries such as bank-affiliated ETCs. Obviously, such confidentiality ought to be a part of the broader fiduciary obligations of a banking institution toward all of its customers.

Nonetheless, proposals to permit banks to own ETCs, proposals which we endorse in principle, would create an extraordinary threat to the confidentiality of information about independent ETCs unless specific safeguards are enacted. The reason is that banks -- in extending credit to independent ETCs, in processing letters of credit and sight drafts, and in maintaining the accounts of these companies -- accumulate an enormous volume of detailed information. This information extends well beyond detailed data on lines of credit, balance sheets and profit-and-loss statements. It includes specific data on export merchandise, their cost, markups to foreign purchasers, freight costs and insurance. In short, the information held by banks about independent ETCs enhances every aspect of our operations and would be an invaluable asset to competing ETCs.

To safeguard this information, NEXCO urges the Subcommittee to adopt, as a part of H.R.6016, language comparable to the following:

> *"Section_____. Notwithstanding any other provisions of law, banking institutions shall take measures to insure that any information and records maintained by them regarding the financial, marketing and other activities of independent export trading companies will not be shared with or divulged to the officers, employees or shareholders of entities in which such banking institutions have an equity or controlling interest, without the express prior written consent of the independent export trading company."*

Equal Credit Terms

NEXCO enthusiastically supports your belief that bank-affiliated ETCs should be able to stand on their own two feet and not depend for their survival on a special relationship with banks. It is particularly important that banks not discriminate in favor of affiliated ETCs and against independent ETCs in extending credit and other financial services under comparable circumstances. Again, this is a matter of fairness.

We recommend that the Subcommittee add to H.R.6016 a specific provision to ensure equal credit terms for independent ETCs and bank-affiliated ETCs alike:

> *"No banking organization holding voting stock or other evidences of ownership of any export trading company may extend credit or cause any affiliate or correspondent or cooperating banking organization to extend credit to any export trading company or to customers of such company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit*

shall not involve more than the normal risk of repayment or present other unfavorable features. For purposes of this section, "credit terms" is understood to cover the denial of credit or any pattern of credit turndown to similar borrowers in similar circumstances."

The Senate-passed bill (S.734) prohibits banking organizations from extending credit to their ETCs or customers of their ETCs on terms more favorable than the credit extended to similar customers im similar circumstances (including non-bank ETCs). The language of the section, although entirely laudable in intent, appears to open the door for a variety of important exceptions. If banks refuse credit on any terms to non-bank ETCs and their customers, the Senate bill probably would not apply. And, if banks used their correspondent bank relationships to channel funds to ETCs on more favorable credit terms, that too might escape regulation. The NEXCO amendments are designed to assure that banks cannot discriminate against independent ETCs by a pattern of credit denials where the banks are confronted with similar bank and non-bank ETC credit applications in similar circumstances. Discrimination against independent ETCs through credit denials would be prohibited. Similarly, banks could not discriminate against independent ETCs through their correspondent bank relationships.

I trust you and the Subcommittee will consider favorably these two proposed amendments to H.R. 6016. NEXCO welcomes your efforts to stimulate exports by means of ETCs and is ready to help you in these efforts in any way you may desire.

Sincerely yours,

Ralph H. Chew
President

NATIONAL ASSOCIATION OF MUTUAL SAVINGS BANKS
200 PARK AVENUE
NEW YORK, N.Y. 10166
TELEPHONE 212-973-5432

Cable Address:
Savings, New York

May 27, 1982

The Honorable Fernand J. St Germain
Chairman
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
Committee on Banking, Finance and Urban Affairs
B 303 Rayburn House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

The National Association of Mutual Savings Banks takes this opportunity to comment on H.R. 6016 and related legislative proposals dealing with export trading companies. The hearings recently completed by your subcommittee have clearly established the need for prompt action on legislation such as H.R. 6016 which would facilitate the establishment and operation of export trading companies. Our association fully agrees that the pending export trading legislation would be a significant step toward improving the ability of American manufacturers and service providers to reach overseas markets.

Notwithstanding the broad support for the overall bill, there continues to be some question over the appropriate role for banking organizations. The Senate version of this legislation, S. 734, was applicable to all depository institutions and would permit U.S. banks to invest up to 5 percent of their capital in an export trading company including majority control. The House approach is more limited in that only bank holding companies and Edge Act corporations could invest in export trading companies. While we would prefer to see the role of banking organizations subject to as few limitations as possible, we do appreciate the concerns expressed by the Federal Reserve Board and others that the traditional separation of banking and commerce requires that we legislate prudently in this area.

Our major difficulty with H.R. 6016 is that, as drafted, it would exclude savings banks, many commercial banks and, indeed, most other depository institutions by limiting bank participation to investments made through registered holding companies or Edge subsidiaries. Of the approximately 50,000 financial institutions doing business in the U. S., less than 2,000 do business in bank holding company form, and to the best of our knowledge, Edge Act corporations are operated only by commercial banks. We

question whether this exclusionary impact is appropriate in a deregulated banking environment where all depositories will soon be expected to compete openly and equally for consumer and corporate business.

Mutual savings banks, of which there are approximately 435 with total assets slightly in excess of $175 billion, operate as non-stock corporations primarily engaged in mortgage lending. We do not expect this basic orientation to be altered even though savings banks have in recent years attempted to diversify their portfolios into shorter-term investment outlets. A major step in this direction was taken in 1980 when the U.S. Congress provided commercial lending powers of up to 5 percent of total assets for federal savings banks, and state statutes in most jurisdictions where savings banks operate now incorporate comparable authority.

This is not to suggest that a great number of savings banks will undertake export trading activities if they are included within the scope of the legislation, but we are strongly of the view that this decision should be left to the management of individual institutions rather than being predetermined by federal law. Savings banks are concentrated in the northeastern part of the U. S. where many of our busiest ports are located and, as you pointed out in the floor statement accompanying the introduction of H.R. 6016, the New England area has traditionally been heavily involved in international trade. Thus, it is reasonable to expect that several of the larger savings banks operating in these areas would be interested in and could contribute materially to the important public policy purposes underlying the export trading legislation.

In view of the foregoing, we respectfully request that when the subcommittee begins the actual process of marking up an export trading bill, you will favorably consider an amendment that would provide savings banks and other depository institutions the same business opportunities that are now contemplated for certain U. S. and foreign banks. We would also like to request that this letter be made a part of the formal hearing record. Thank you very much for your consideration of our views.

Sincerely yours,

Herbert W. Gray
Chairman

cc: Hon. Peter Rodino, Chairman
House Committee on the Judiciary
Hon. Clement J. Zablocki, Chairman
House Committee on Foreign Affairs

National Governors' Association

Richard A. Snelling
Governor of Vermont
Chairman

Stephen B. Farber
Executive Director

STATEMENT BY GOVERNOR GEORGE BUSBEE

ON H.R. 6016, THE "BANK EXPORT SERVICES ACT"

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,

REGULATION & INSURANCE

MAY 19, 1982

The purpose of my brief statement is to commend the members of this Subcommittee, and its Chairman, Rep. St. Germain, for its careful work in developing the Bank Export Services Act as its contribution to export trading company legislation.

As former Chairman of the National Governors' Association's Committee on International Trade and Foreign Relations, and as a current member of the President's Export Council, I have spent a considerable amount of time in recent years encouraging development of the export trading company concept.

Certainly the crafting and passage of a trading company bill has been the top legislative priority of most international trade advocates since at least 1979.

In my opinion, the type of bill it appears will emerge from the legislative process, as exemplified by this Subcommittee's work, should justify all the time, effort, and attention devoted

HALL OF THE STATES • 444 North Capitol Street • Washington, D.C. 20001 • (202) 624-5300

to trading companies in the 96th and 97th Congress.

In many respects, this legislation has become a symbol to American trade advocates, in part because of the dramatic success some of our trade competitors have had in utilizing trading companies to mobilize their full export potential.

The symbolism of trading companies, however, goes far beyond the well-known example of Japan. At a time when budgetary considerations may prevent our government from providing the sort of positive incentives to exporting offered in other countries, it is essential that we enable our private sector to use its own resources to draw new-to-export firms into the world marketplace.

The Bank Export Services Act, together with the antitrust provisions being discussed in the Judiciary Committee, will help remove government disincentives to the development of private-sector incentives to exporting.

Obviously, some access to the financial resources of the U.S. banking community could prove critical to the establishment of trading companies offering the wide range of export services needed by firms -- especially smaller firms -- who have never

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before exported. While we must be sensitive to the public concern that some semblance of the traditional division between commercial and financial activities be maintained, we still face the unavoidable fact that inadequate financing is the single greatest impediment to new export development, and that bank financing is needed to fill the void.

I have heard some arguments in the past that the trading company concept is merely symbolic -- that it would not in fact make much difference in our export capacity.

A recent study conducted by Chase Econometrics, which I am sure some members of the Subcommittee have seen, reached conclusions of a dramatically different nature.

According to this study, passage of trading company legislation could lead, by 1985, to a $14 billion real increase in the gross national product, 640,000 new jobs, and a $22 billion reduction in the federal deficit.

If these projections are even remotely in line with reality, then the current economic plight of the country would suggest that this legislation become one of the top priorities for floor action in the House, and for final action by the President before the end of the session.

As a Governor, I can tell you that our own state export promotion efforts would be helped greatly by passage of this bill. Most states already are targeting their promotion efforts, and such few direct incentives as they can afford, towards small and medium-sized businesses. But while we can help inform them of market opportunities, establish contacts, sponsor trade missions and so forth, we cannot provide the financing to make exporting by these firms feasible, and we cannot guarantee them that joint marketing arrangements will not run afoul of federal antitrust actions.

Passage of this legislation would aid the states in helping to take on an increased share of the national burden of promoting international trade.

I would like to express my appreciation to Chairman St. Germain and his staff for acting on trading company legislation, which is a priority issue for the National Governors' Association; and to Congressman Doug Barnard for working with us to promote understanding of this legislation in Georgia and elsewhere.

14 WALL STREET • NEW YORK, N.Y. 10005

(212) 233-0550 • TELEX: [redacted] • CABLE: AMERTUTE
129245

May 24, 1982

The Honorable Fernand St. Germain
Chairman
House Committee on Banking, Finance
and Urban Affairs
U. S. Congress
Washington, D. C. 20515

Dear Chairman St. Germain:

The American Institute of Marine Underwriters (AIMU) is grateful for this opportunity to make its views known on the subject of pending export trading legislation. AIMU has supported similar legislation in the Senate and continues to encourage efforts to increase export trade. The American marine insurance market would like to express its support for H. R. 6016, expecially the drafting of the section setting out the services which may be offered by the trading companies. AIMU concurs that insurance should not be among the services which may be exported by export trading companies.

AIMU has in the past expressed concern over proposed legislation such as H. R. 1799 (prior to the amendment of the House Foreign Affairs Subcommittee on International Economic Policy and Trade Subcommittee eliminating insurance as a service which may be offered). Listing insurance as an activity in which such. trading companies may engage would lead to considerable problems in implementation. We doubt that the U. S. Congress would intend thereby to allow export trading companies to become equivalents of licensed insurance entities (i. e., agents, brokers, or underwriters). AIMU believes that listing insurance as an export trading company service could lead to such difficulties of interpretation.

We favor the approach in H. R. 6016 and H. R. 1799, as amended, which would permit such companies to function much like freight forwarders and

(continued...)

AIMU

offer their clientele insurance coverages for transit of goods through an open cargo policy obtained from a legitimate marine insurance company.

Furthermore, unlimited insurance activities by an export trading company could also violate the traditional separation between insurance companies and banks.

Thank you for the opportunity to submit our views on this important legislation.

Very truly yours,

Thomas A. Fain
President

American Iron and Steel Institute

1000 16th Street N.W., Washington, D.C. 20036

William H. Hoffman, Jr.
Vice President
Government Relations
(202) 452-7230

May 14, 1982

MAY 17 1982

The Honorable Fernand J. St Germain
Chairman, Committee on Banking,
Finance and Urban Affairs
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

The Subcommittee on Financial Institutions Supervision, Regulation and Insurance, which you also chair, will hold hearings on May 19 and 20 with respect to export trading company legislation.

On behalf of the American Iron and Steel Institute, I am forwarding our policy statement on this legislation which we would like made part of the hearing record.

We believe this legislation is vital to the rebuilding of American export competitiveness in the world marketplace. We urge prompt action by both the Subcommittee and the full Committee so that final Congressional action can be taken before the end of this session.

Sincerely,

Enclosure

cc: Members of the Subcommittee

American Iron and Steel Institute

Policy Statement in Support of Export Trading Company Legislation

The American Iron and Steel Institute (AISI), whose 67 domestic companies account for approximately 93 percent of the raw steel produced in the U.S., supports passage in this session of Congress of export trading company legislation. We are taking this position for the following reasons.

AISI appreciates that export trading company legislation incorporates important elements of banking and antitrust legislation, but we understand first of all that the primary purpose behind such legislation is, exactly as stated, to improve U.S. export performance. We strongly support this legislative goal and agree with Commerce Secretary Baldrige's conclusion that this legislation will increase U.S. exports of goods and services by promoting the greater use of export trading companies.

Second, we support this legislation because we believe that some of our member companies may derive specific benefits from it in the form of increased exports of steel. (U.S. steel companies in 1981 exported nearly 3 million tons of steel mill products, valued at more than $1.5 billion.) Third, and possibly most important, this legislation will benefit many other U.S. manufacturers who export processed steel and steel-intensive products, and will therefore benefit steel companies who supply these manufacturers.

Fourth, we believe that export trading company legislation should address the two primary problems which have hindered the formation of export trading companies until now -- antitrust uncertainties and lack of capital. AISI recognizes that opinions may vary on the specifics of export trading company legislation's antitrust and banking provisions. In our view, S. 734 which has passed the Senate succeeds on both accounts. This bill clarifies some key antitrust matters currently in doubt, and its antitrust immunity certification and preclearance procedures administered by the Commerce Department offer U.S. businesses forming export trading companies relatively more antitrust certainty than would any of the alternative proposals now before the House. Likewise, its more substantial and direct role for bank participation maximizes the potential for a boost to U.S. exports especially by small and medium-sized firms.

Passage of export trading company legislation this session is but a first step on the road to rebuilding U.S. export competitiveness in world markets. It should not be delayed any longer.

Brown & Sharpe Manufacturing Company

Donald A. Roach
President
and Chief Executive Officer

Precision Park,
North Kingstown,
Rhode Island 02852, U.S.A.
Telephone 401-886-2210
Telex 92-7771
Cable-Sharpe

April 14, 1982

The Honorable Fernand J. St. Germain
202 John E. Fogarty Federal Building
Providence, Rhode Island 02903

Dear Congressman St. Germain:

On behalf of the machine tool industry, I would like to compliment you on your initiative in introducing the Bank Export Services Act.

Our mutual objective to increase the level of U.S. exports is enhanced by your willingness to move forward with legislation which will facilitate the formation of much needed export trading companies. This legislation and the increased exports it will foster are vital to Brown & Sharpe, the machine tool industry, and, indeed, the U.S. economy in general.

I feel equally confident that this legislation, based on the studies prepared by the New England Congressional Institute, will be beneficial to many smaller New England companies who would otherwise not be able to export.

It appears that through the legislative process an ideal balance will be developed for the participation by banking institutions in export trading companies.

We commend you for your efforts.

Sincerely,

Don Roach

D. A. Roach

bj

JUN 8 1982

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June 2, 1982

The Honorable Fernand J. St. Germain
Chairman, House Committee on Banking, Finance
and Urban Affairs
United States House of Representatives
Washington, D.C. 20515

Re: H.R. 6016

Dear Chairman St. Germain:

In connection with the Committee's consideration of H.R. 6016, we respectfully request on behalf of the Association of German Banks that the enclosed letter dated May 14, 1982, addressed to John E. Ryan, Director, Division of Supervision and Regulation, Board of Governors of the Federal Reserve System, be included in the legislative record. The Association is greatly reassured by Governor Wallich's testimony before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, on May 19, 1982, to the effect that worldwide capital will be the basis for determining the limitation on Bankers' Acceptances for foreign banks operating in the United States.

Yours truly,

Albert D. Sturtevant

ADS:ch
Enclosure

cc: The Honorable J. William Stanton
Ranking Minority Member
Committee on Banking, Finance and Urban Affairs

The Honorable Chalmers P. Wylie
Ranking Minority Member
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance

LAW OFFICES
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May 14, 1982

John E. Ryan, Director
Division of Bank Supervision
and Regulation
Board of Governors of the Federal
Reserve System
20th Street and Constitution Ave., N.W.
Washington, D.C. 20551

Re: H.R. 6016

Dear Mr. Ryan:

We understand that the Board is about to consider its position with respect to H.R. 6016. Accordingly, we are submitting the following comments on behalf of the Association of German Banks (hereinafter called "the Association") with respect to Section 3 of the bill which relates to bankers' acceptances. The Association is a membership organization of German banks, many of which conduct banking operations in the United States.

In its current form Section 3 of the bill would apply limitations on bankers' acceptances to United States branches and agencies of foreign banks. The Association respectfully requests that the Board clarify, either through an interpretation of the bill or by asking the House Banking Committee to amend H.R. 6016, that any limitations on bankers' acceptances of foreign banks should be applied on the basis of the precedent established in Section 4(b)(2) of the International Banking Act of 1978 (IBA), namely, that:

> any limitation or restriction based on the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar

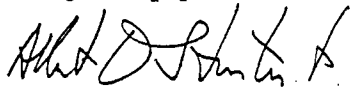
> equivalent of the capital stock and surplus of the foreign bank, and if the foreign bank has more than one Federal branch or agency the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation.
> . . . .

Any other approach to limitations on bankers' acceptances would be contrary to the principle of national treatment embodied in the IBA, after extensive consideration of alternatives by the Congress. That principle recognizes that foreign banks operating in the United States should be regulated in the same way as domestic banks. As the limitations on bankers' acceptances currently applicable to domestic member banks are based upon the world-wide capital and surplus of the banks, the Association believes that the principle of national treatment requires that the same approach should be taken in any limitation of the bankers' acceptances of foreign banks operating in the United States.

It is our understanding that the Institute of Foreign Bankers has furnished comments to the Board on this subject and the Association generally supports the Institute's position in this regard.

We appreciate your consideration of these comments and will be pleased to provide further information if you should desire.

Very truly yours,



Albert D. Sturtevant

ADS/sys

Cleveland

CLEVELAND AREA DEVELOPMENT CORPORATION

A DIVISION OF THE GREATER CLEVELAND GROWTH ASSOCIATION

May 24, 1982

The Honorable Fernand J. St Germain
Chairman, Subcommittee on Financial Institutions
Supervision, Regulations, & Insurance of the
Committee on Banking, Finance, & Urban Affairs
Ninety-Seventh Congress
Washington, D. C. 20515

Dear Congressman St Germain:

I want to thank you again for inviting the Greater Cleveland Growth Association to appear before your committee on behalf of H.R. 6016, the Bank Export Services Act. As I explained earlier, May 20 was the scheduled date of our 37th Annual World Trade Conference, and it was impossible for me or anyone else involved in international trade in Cleveland to be in Washington on that day. I sincerely regret the conflict and appreciate very much your invitation.

In the letter, I promised to submit to you written testimony regarding our position. It is enclosed. In summary, we support H.R. 6016 and encourage the U. S. House of Representatives to ultimately incorporate its provisions, along with the provisions of H.R. 1799 and H.R. 5235, into a consolidated bill which contains the provisions of S. 724, introduced by Senator Heinz and passed by the United States Senate in 1981.

We would like to add a note of commendation for Congresswoman Mary Rose Oakar, who has supported the concept of Export Trading Companies for a number of years and who has kept us apprised of your committee's actions on H.R. 6016.

In closing, I would like to return to the topic of our 37th Annual World Trade Conference. Because of your interest in international trade, I thought you might like a copy of our conference agenda. The content and participants in the conference reflect the very high value we place upon international trade opportunities in Greater Cleveland.

We appreciate your efforts in behalf of promoting U. S. Export Trading Companies.

Sincerely yours,

J. Gerard Sheehan
Executive Director

CC: Congresswoman Mary Rose Oakar

690 UNION COMMERCE BUILDING • CLEVELAND, OHIO 44115 • (216) 621-3300

TESTIMONY ON
EXPORT TRADING COMPANIES
H.R. 6016

SUBMITTED TO THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

SUPERVISION, REGULATIONS AND INSURANCE

OF THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

BY

J. GERARD SHEEHAN

EXECUTIVE DIRECTOR

CLEVELAND AREA DEVELOPMENT CORPORATION

A DIVISION OF THE

GREATER CLEVELAND GROWTH ASSOCIATION

690 UNION COMMERCE BUILDING

CLEVELAND, OHIO 44115

May, 1982

The Greater Cleveland Growth Association appreciates the opportunity to testify in support of H.R. 6016, which will permit bank holding companies and Edge Act corporations to invest in export trading companies and to reduce restrictions on trade financing provided by financial institutions.

The Greater Cleveland Growth Association is one of the nation's largest chamber of commerce and industry. Its membership consists of more than 4,300 companies. It is also one of the few business organizations of its type in the nation to include labor representatives among its membership and its Board.

Our support for H.R. 6016 is based upon the conviction that its enactment, along with the enactment of other export trading company bills now before the U. S. House of Representatives, will enable small and medium sized businesses in the United States to become more competitive in international markets than they now are.

Specifically, we encourage the House of Representatives to ultimately incorporate the provisions of H.R. 6016, H.R. 1799, and H.R. 5235 into a consolidated bill which contains the provisions of S. 734, introduced by Senator Heinz and passed by a unanimous vote of the U. S. Senate on April 8, 1981.

We submit for the record a "Background on Export Trading Company Legislation," prepared by the Government and Community Affairs Division of the Growth Association. It documents the serious trade imbalance of the United States and describes how, in our opinion, export trading companies can help to offset annual deficits in U. S. trade balances.

In conclusion, we reiterate our support of H.R. 1606 as an essential component of an overall export trading company bill which we urge the U. S. House of Representatives to pass in an expeditious manner.

Cleveland
GREATER CLEVELAND GROWTH ASSOCIATION
THE CHAMBER OF COMMERCE FOR GREATER CLEVELAND

BACKGROUND ON EXPORT TRADING COMPANY LEGISLATION

Background / U. S. Position in the World Market

The United States balance of trade has been in deficit since 1975. The particularly large deficits in 1977 and 1978, $26.5 billion and $28.4 billion, respectively, stimulated considerable concern within the Congress and the Carter Administration about the effects of Government policies, laws, and regulations on U. S. exporters. The Administration's review of U. S. export policy resulted in the announcement, on September 26, 1978, of a comprehensive program to stimulate U. S. exports.

The record U. S. trade deficits in 1977 and 1978 were the result of both slow export growth and rapid growth of imports. After increasing at an annual rate of approximately 13% in the first half of the 1970's, exports increased by only 7% in 1976 and 5% in 1977. At the same time, imports, which had increased at an annual rate of 12% in the first half of the decade, grew by 25% in 1976 and 21% in 1977.

U. S. export performance was also poor by comparison with other industrial countries. In 1970, the United States accounted for 18% of all goods and 21.3% of all manufactured goods exported by major Western industrial countries. In 1978, the U. S shares were 14.2% and 17%. The U. S. loss of export shares was largely the result of increased shares of Japan and West Germany.

Importance of International Trade to Ohio

According to a 1981 U. S. Census Bureau report, almost 300,000 Ohio jobs were associated with the export of manufactured goods, ranking the state behind only California and New York.

The total value of export related manufactured goods in Ohio in 1980 was $18.2 billion, with $10.4 billion of that direct export and $7.8 billions the value of supporting components of those exports.

The value of export-realted manufactured goods represented 15.9% of the total value of manufactured products in Ohio in 1980, which was $11.6 billion.

International Trade In Greater Cleveland

Greater Cleveland's diversified industrial economy depends heavily upon international trade to maintain its vitality and growth. A substantial portion of Ohio's exported products and services originate in Greater Cleveland, the headquarters location of 33 Fortune 1000 industrials and 40 other corporations

which have annual sales in excess of $100 million. According to the U. S. Bureau of Census's 1976 Survey of Manufacturers, the Cleveland SMSA (Cuyahoga, Lake, Geauga, and Medina counties) exported $1.132 billion of manufactured goods, 8% of total manufacturing shipments that year.

Benefits of Trading Companies

The export trading company concept provides a comprehensive vehicle for export expansion. The exporting success of European and Japanese trading companies provides a model upon which the U. S. Government could encourage and support the formation and expansion of somewhat similar entities in the United States.

Trading companies have played an important role in the economic development of both Japan and Europe. Historically, trading companies have provided a wide range of exporting services, including marketing research, transportation, warehousing, after-sales servicing, and most important, trade financing. Their development is linked to the needs of individual firms to pool capital and distribute risk in engaging in more costly and less certain foreign markets. Supporters of the concept maintain that U. S. small and medium-size firms have similar needs in overcoming their historic reliance on the more certain and less risky U. S. market.

Trading companies in Japan account for over 50% of the country's total trade - both imports and exports. They are also heavily engaged in sales in Japan's home market. They trade thousands of products all over the world. Japanese trading companies are also heavily involved in exporting from the United States. In 1980, Mitsui was the sixth largest U. S. exporter. They also own or control a significant number of manufacturing firms and often buy raw materials for these firms in large volume at discounted prices. Japanese tradning companies support a large and important commercial network overseas which facilitates long-term market development and commercial and technological intelligence. Most important, each trading company tends to associate with a bank or banking group which provides clients with credit.

In contrast to the success of Japanese trading companies, the most successful U. S. exporters market their own products by combining marketing and production within a single corporate structure. U. S. export competitiveness depends on product innovation, research and development, and servicing. If trading companies were to promote U. S. exports, particularly for small and medium-size firms, they would need a close relationship and domestic manufacturers to exploit the traditional U. S. strength in producing new and innovative products.

Legislative Action

The original legislation to encourage the formation of export trading companies was introducted by Senator Stevenson as S. 1663. The bill contained four major provisions, relating to antitrust, banking, financing, and taxation.

S. 734, introduced by Senator Heinz, included all but the taxation provisions of Senator Stevensons's legislation. Separate legislation to address the tax issues will likely be introducted. S. 734 passed the Senate by a unanimous vote of 93 - 9 on April 8, 1981.

Key issues are involved with respect to S. 734's provisions on antitrust, banking, and financing. The antitrust provisions of the legislation amend the Webb-Pomerene Act of 1981, which provides an antitrust exemption ot export trade associations, and extends the same antitrust exemption to export trading companies. Three modifications of the Webb-Pomerene Act are proposed. The first change involves instituting a certification process that would clarify what types of cooperative export activities are permissible. The clearance procedure would facilitate exports by permitting firms to determine in advance exactly which export trade activities would be immune from antitrust suit. Businessmen often profess reluctance to use the Act because of gernal uncertainty over which constitutes a domestic restraint of trade. A second modification would make trade in services (e.g., insurance, engineering, construction) eligible for the antitrust exemption. A third modication entails shifting the administration of the Act from the Federal Trade Commission to the Commerce Department. The Secretary of Commerce would be directed to promote export trading companies.

The banking and financing provisions allow limited investments by U. S. banks in export trading companies. The investment cannot exceed 5% of a bank's capital, and all controlling investments by banks and all investments over $10 million would be subject to prior approval and conditions imposed by Federal bank regulatory agencies. The provision is controversial because it breaks the traditional separation between banking and commerce. Proponents of bank involvement maintain that U. S. banks can provide important trade services such as research, foreign market knowledge and experience, expertise in documentation and, most importantly, financing. Moreover, it is argued that banks have a long-range view of foreign markets that would help offset the short-term profit horizon of many U. S. producers. Changes in U. S. Law --- the Edge Act and Regulation K --- would be required for bank participation.

Both the Edge Act and Regulation K reflect a long standing view that banking and commerce should remain institutionally separate. The primary motivation is to insure that the lending decisions of banks should be impartial and based on sound economic and financial grounds.

In 1982, three House Committees share jurisdiction of export trading legislation - Banking, Judiciary, and Foreign Affairs. On April 22, Banking's Financial Institutions Subcommittee held the first of three hearings on St Germain's (D-R.I.), H.R. 6016, the bill that provides for the creation of export trading companies. It would permit bank holding companies and Edge Act corporations to invest in export trading companies and to reduce restrictions on trade financing provided by financial institutions.

Also under consideration in the House are H. R. 1799 and H.R. 5235. H.R. 1799, which the House Foreign Affairs Committee reported upon on April 29, 1982, is a general exporting trading company bill similar to S. 734. H.R. 5235, an export antitrust bill, will be revised to contain more specific provisions under the House Judiciary and Monopolies Subcommittee.

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April 26, 1982

Honorable Fernand J. St. Germain
Chairman
U.S. House of Representatives
Committee on Banking, Finance
and Urban Affairs
2129 Rayburn House Office Bldg.
Washington, D.C. 20515

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Banking, Finance & Urban Affairs Committee

Re: H.R. 6016

Dear Mr. Chairman:

Thank you again for inviting me to testify on April 22, 1982 regarding H.R. 6016. You and the co-sponsors of this bill have made an extremely valuable contribution to the evolution of the export trading company, and the members of the Export Managers Association of California applaud your efforts.

I appreciated very much your bringing to my attention the issue regarding the participation of California banking institutions in the insurance business. Upon my return to Los Angeles, I unearthed the California Insurance Code and, of course, found Section 1643 which prohibits bank holding companies, subsidiaries, or affiliates thereof from acting as an insurance agent or broker in California. I note, however, that an exception already has been made for such institutions to act as life and disability insurance agents limited to the transaction of credit life and disability insurance, along with other exceptions not relevant here. I believe that an effort to create another exception for transacting credit and casualty insurance in connection with export trading company affiliates might meet with success, although I admit freely that I have not yet contended with the strength of the Independent Insurance Brokers Association.

I regret that we did not have more time to discuss some of the peripheral but important issues arising in connection with your bill. In particular, I found your comments regarding the lack of vocational training for persons working in the trade field to be most perceptive. You may be interested to know that the Southern California District Export Council, which I chair, has embarked upon a model program with the Long Beach Unified School District to develop a secondary school trade curriculum. These efforts have meet with great success thus far, and you may be assured that we will be sparing no effort to perfect this program and promoting its adoption by other secondary schools in Southern California.

Again, I enjoyed our dialog. Your support for and interest in U.S. exporters is very much appreciated.

Respectfully,

John R. Liebman

JRL/ic

INTERNATIONAL PROJECTS INC.

May 13, 1982

MAY 17 1982

Mr. Richard L. Still
Staff Director
U. S. House of Representatives
Subcommitte on Financial Institutions
Supervision, Regulation and Insurance
of the
Committee on Banking, Finance and Urban Affairs
Ninety-Seventh Congress
Washington, D.C. 20515

Dear Mr. Still:

Thank you for your May 7 letter on pending export trading company legislation. We submit the following points for consideration of the Subcommittee:

A) Confidentiality of information: Most foreign trade is conducted on a documentary basis. Documents include detailed commercial invoices which show customer name and address, full description and prices of goods sold, terms of sale, payment terms, and cost of freight. These documents are transmitted through commercial banks and in most cases must be so handled in order to comply with terms of payment. If commercial banks or their holding companies or their Edge Act subsidiaries also participate in export trading company ownership, how can such transactions be safely processed without revealing such sensitive information to potential competition. Note: The involvement of commercial banks is not a particularly American practice and therefore can not be modified out of existance by ourselves alone. It is incorporated in the normal terms and conditions of overseas trade worldwide.

B) Nationality of ownership: By encouraging banks to participate in export trading companies, we are in fact centralizing much of our exports into large groupings. However, overseas ownership in American commercial banks themselves is a growing trend. How do we retain in American hands, control of large and obvious sectors of our exports if overseas interests can buy into the bank holding companies and gain access (for the benefit of their own national trading interests) to the confidential information described in paragraph A?

C) Given commercial bank participation in U.S. export trading companies, what assurance exists that the ETC will bother with the small to medium sized non exporting manufacturer (which have the real potential to increase export sales)? Would they not first target into the already exporting manufacturers in order to gain a quick return? Have they the personnel let alone inclination to intensively cultivate non exporting manufacturers?

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Mr. Richard L. Still
Staff Director
U. S. House of Representatives
Page 2
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D) An increase in the limit on bankers acceptances is clearly a step forward as it increases the capital available to finance exports. However, must this of necessity be part of bank ownership of ETC's? In fact, will bank ETC ownership not reduce the benefit of extra capital for exports (as the banks hold back on their new additional export lending capability in favor of their own exporting subsidaries)?

E) The expertise required to export differs considerably from that required to provide export related banking services. As the bank owned ETC's can not find the personnel they need at the bank end, they will have to staff up with exporters now employed in "in house" export departments of manufacturers and/or now employed by existing general exporters. This large scale shifting will cause short term chaos at the very least. U. S. exports will likely drop in the next few years until the relatively few exporters to be found in this country find their "niche" within new large export trading companies. It will also seriously hurt existing export departments of large manufacturers and large independent non-bank owned exporters to lose personnel to the new bank owned ETC's.

F) Bank ownership of export companies with subordinate export oriented personnel to domestic oriented management who do not and can not know the problems and opportunities facing the exporters. Until such time as bank parent company management fully understands how to export, (if ever) this will stifle the bank owned ETC personnel.

Unless these objections can be resolved, it would be extremely hazardous to make such a radical switch in our export system. After all, exports are too important to our country to permit trial and error experiments.

Respectfully,

INTERNATIONAL PROJECTS INC.

Frank J. Reynolds
President

FR:sb

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SECURITY PACIFIC INTERNATIONAL BANK
245 PARK AVENUE
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JOSEPH C. FEGHALI
PRESIDENT
AND
CHIEF EXECUTIVE OFFICER

May 17, 1982

Honorable Fernand J. St. Germain
Chairman
Committee on Banking, Finance
And Urban Affairs
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

By this letter, we at Security Pacific would like to express our thanks to you for taking the lead in moving legislation to promote the formation of export trading companies to expand and improve opportunities in international trade. The idea is an important one and we firmly believe such an initiative will result in new exporting by many middle-size corporations previously uninvolved or deterred from exporting.

The hearing you conducted on H.R. 6016 set forth important goals for export trading companies and has begun to point up adjustments to the legislation which will improve the mechanics of a government-monitored, privately-run program. As you move to additional hearings on the legislation, I would like to provide for your consideration some items of concern to us.

First, we concur with much of the testimony at the hearing on April 22nd indicating that Section 2 should be amended to define a trading company as an organization engaged primarily in export trade as opposed to the current language of exclusively operating to export. Clearly flexibility in operations will be essential to any trading company and we feel confident that it will not lead to any excesses. Trading is usually a two way street and many negotiations turn on exchanging exports for imports and on a variety of third country involvements.

Second, I believe that the language of S. 734 will permit greater flexibility than H.R. 6016 in the area of services to be provided by a trading company. Any businessman will inquire into a venture with an eye toward his ability to adapt to changing circumstances; legislation on trading companies should recognize and encourage flexibility. Throughout Sec. 103 (a) of S. 734, the definitions of "services" and "export trade services" are

expressed as "...includes, but is not limited to..." This non-exclusive listing permits addition in future years of items which may become necessary to successful international trade. Sec. 103 (b) permits the Secretary of Commerce to further define these terms. (Similar language appears in the antitrust sections of the legislation.) We would encourage you to look favorably upon a change in H.R. 6016 to provide a more permissive list of activities.

In line with the above concern, I am certain you have heard the calls for permission to engage in insurance activities which appears in the Senate version of the legislation, but not in H.R. 6016. As the National Association of Manufacturers testified, inclusion of insurance makes an ETC more appealing to the businessman as it provides that the "...export trading company could approximate a one-stop, comprehensive service..." This power is an important facet of international trade and its omission would adversely affect the viability of a trading company.

Third, I would note that the application of Section 23A of the Federal Reserve Act to bank holding companies and to Edge Act corporations owning trading companies is a most troublesome area. Apart from its capital investment rules and extensive paperwork and regulatory requirements, Section 23A is itself under consideration for revision as a part of S. 1720, Section 210, introduced by Senator Garn, and H.R. 5198, introduced by Congressman Vento. We would encourage careful review and consideration of the ramifications of applying 23A in this instance. With the many controls remaining in the legislation and with the example of S. 734, clearly arms-length transactions will be no problem.

Finally, Section 2(a) (3) and 2(b) (2) of H.R. 6016 extend inordinate power and discretion to the Federal Reserve Board in conditioning approval of export trading company applications. An open-ended directive to impose "...such restrictions, by regulation or otherwise, as the Board deems necessary to prevent conflicts of interest, unsafe or unsound banking practices, undue concentration of resources, and decreased or unfair competetion," seems redundant of many obligations the Board already must meet, appears to emphasize the needs for controls in an era of deregulation, and involves the Board in issues more properly addressed by the Secretary of Commerce and the Justice Department. We would urge consideration of some tightening of this language.

The inclusion of amendments in Section 3 of H.R. 6016 to the Federal Reserve Act regarding banker's acceptances is an important and welcome change. This will go a long way in providing greater trade capacity through improved bank financing.

Again, thank you for taking the lead on this important issue. We appreciate your consideration of our views and welcome any questions you might have for us.

Sincerely,

Joseph C. Feghali

Statement of

George W. Haigh

President and Chief Executive Officer

Toledo Trustcorp, Inc.

on

The Bank Export Services Act

Before the

Subcommittee on Financial Institutions Supervision,

Regulation and Insurance

of the

Committee on Banking, Finance and Urban Affairs

U.S. House of Representatives

June 17, 1982

Mr. Chairman, members of the Subcommittee, ladies and gentlemen...

My name is George W. Haigh, and I am the President and Chief Executive Officer at Toledo Trustcorp, Inc. of Toledo, Ohio. The formation and growth of Toledo Trust is a story which closely parallels the growth of the city of Toledo itself. In 1868 Toledo, as an incorporated town, was just 31 years old when Toledo Trust's original predecessor bank opened its doors with $100,000 of original capital. Down through the years with several mergers and consolidations the name of "The Toledo Trust Company" evolved, and back in 1933 total assets of the bank were in excess of $53 million dollars.
Toledo Trust is the largest bank in Northwest Ohio. It became the lead bank of a holding company formed in 1971, the first in Northwest Ohio to take advantage of increased opportunities for expansion. Recently a new headquarters building was dedicated in downtown Toledo as part of the riverfront development know as Seagate. Toledo Trustcorp services a 30 county market area of Northwest Ohio with 58 offices. The acquisition of First Buckeye Bank of Mansfield, Ohio, expected by year-end 1982, will increase the branch network to 83 offices. Not only does Toledo Trust offer checking accounts, safe deposit boxes, certificates of deposits, trust services, commercial and instalment loans and other traditional bank services but it also offers travel services, investment management and international trade services as well. In its 114 year history, Toledo Trust has changed with the city and the times, and will have grown in size to total assets of over 1.6 billion dollars by the end of this year.

Unique to banks, and apropos to this testimony, is the fact that its President and Chief Executive Officer, and also its Vice President International, have both spent the greater part of their business careers in industry with emphasis on the international operations of their former companies. I myself spent 20 years with The DeVilbiss Company in Toledo, a 200 million dollar company, leaving as its president five years ago before coming to Toledo Trust as its President and Chief Executive Officer; and our Vice President International prior to joining the bank last year had spent some 35 years

most of which were in the international operations of two companies, Toledo Scale Company and The DeVilbiss Company, both companies whose sales and profits were roughly 50% derived from exporting plus the operations of their overseas subsidiaries. We dwell on this point only because the organization of many banks include international departments, but few if any regional banks like Toledo Trust possess an executive staff with deep experience and a practical knowledge of both the international banking world and the commercial world of international business. To put it bluntly - we know what we are talking about.

For the past two years we have followed closely the progress of the ETC legislation through Congress. Our bank is expansion oriented; not only by the acquisition of a number of smaller banks in the communities of Northwest Ohio, but by the introduction of new products. During the past year our bank has introduced a unique service which we have labeled International Consulting. The new Vice President International (mentioned before) has been added to the staff with the prime responsibility to call on industrial firms in Northwest Ohio and to counsel them on exporting - or importing; or if they are already in it, then to help them expand. The fall out from this service has brought additional revenue into the international department organized some 25 years ago, with added volume in both export and import letters of credit, foreign collections, and loans to domestic customers to support their new export volume.

There continues to be among American businessmen a hesitation to get started in international business. Some companies have been frightened off with failure to collect on an early order, or others question development of foreign markets when their company has not yet covered the United States. Other comments are that it is difficult to obtain a satisfactory distributor abroad; or that it takes a long time to collect receivables. It is submitted that to experienced international people, these comments are no more than poor excuses and are easily overcome.

We are certain it is unnecessary to call the committee's attention to the fact that Americans are poor exporters compared with their counterparts in the other industrialized nations of the world. The facts are well known: Since 1970 American imports have exceeded exports by 4 times over; that we have lost market share in 8 of the 9 EEC OPEC countries; that only 10% of some 250,000 manufacturing firms in the United States do any exporting at all; and that less than 1% of these companies account for 80% of all U.S. exports. We were struck by a recent publication of the Swedish Export Association, a Swedish government agency, which was entitled "Export or Die!" It is submitted that our own government over the years has only paid lip service to the fact that exports are a necessary ingredient of business life and a critical item in our country's balance of payments position. We are strong advocates of international trade, especially free trade brought about by people to people contact. Although we accept that there must be high level cooperation between governments, in the final analysis it is a free trade concept that causes our world to become smaller and smaller in the sense of living with each other.

While we submit that the proposed legislation permitting banks to acquire and establish export trading companies is not the complete answer and the elixir which overnight will solve our poor export record, nevertheless it is an important rung in the ladder of hoped-for succeeding efforts by Congress to do something for the American businessman and help him to get into new markets created through exporting.

It is clear from prior reports submitted to this committee that banks with their international offices and experience in trade financing are the most likely source of leadership in forming export trading companies. The United States banking system is the important link between trading companies and U.S. businesses seeking to export their goods or services. Many times the financial or credit aspect of an export transaction is the most critical element, and bank participation in a trading company

will expand its capabilities to put forward a realistic financing package for its customer. Toledo Trust in particular with its many contacts abroad stemming from not only its international industrial experience of some of its officers as indicated before, but also with the account relationships that it maintains with a number of foreign banks will be benefitted by this legislation.

We respectfully bring to your attention another thought favoring the legislation. In recent years we have expanded our banking business into both new products and expanded geographical areas in Ohio. But under existing bank regulations, this new product oriented strategy reaches a natural limit. It is well known that banks have become vulnerable to loss of market share from the emerging financial conglomerants. This increasingly competitive banking environment prompts us constantly to develop new strategies which will lead us to more supportive relationships with our customers. We have become interested in the ETC legislation because it supplements and expands our existing international product. Therefore we at Toledo Trust view this legislation as beneficial to our growth and necessary to enhance the banking relationships with our business customers.

Once the legislation is enacted, it is our intention to form an ETC with a corporate purpose to cover all the customary objectives of an export trading company. We would be remiss in not mentioning another important aspect of this legislation to our bank, as it operates today, which is simply to arouse the local business community to the importance of exporting and the fact that our Congress has enacted important legislation to help the businessman. In the beginning this fact of local publicity is almost as important as the substance of the legislation itself. It would be exciting and pleasantly surprising to the average businessman who has not followed the path of the legislation as closely as we have. It is anticipated that once the legislation is enacted, the news media will popularize the whole subject of our deteriorating trade

deficit and the importance of exporting, and it will therefore enhance our bank's image in leading the business community with our export consulting service.

Once the legislation is enacted our wholly owned export trading company will initially perform the services that our bank is currently performing, as a package service for exporters, i.e. financing, consultation and documentation - which are functions that do not require the bank to take title to the goods. As a second stage, however, it is our plan that the export trading company will merge with such other allied service companies in the area as one of our several export management companies or freight forwarding companies. There are many possibilities that appear attractive to us but these types of acquisitions could include not only one but several of such forwarding companies or export management companies - all merged with and included in the bank's subsidiary company whose prime purpose will be to render a package export service to the bank's customers.

We would like to point out to the committee one questionable aspect of the bill, and that is the prohibition on the use of the bank's name in association with an affiliated export trading company. As indicated previously we look forward to the favorable image created by publicity at the time of the enactment of the legislation, and we expect to benefit by marketing our international banking services along with our export trading company capability. We therefore recommend that banks who are willing to take a controlling interest in export trading companies at least be given the option of using their name in association with their export trading company business. Frankly, we are unaware of what the serious objections would be to calling such subsidiary "Toledo Trust Export Trading Company".

We welcome any questions you might have, and my colleagues and I will of course do our best to give you our answers. We also pledge our cooperation to work in any way we can to help your staff on any phases of the legislation wherein you think we might be of assistance.

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