

EXPORT TRADING COMPANY LEGISLATION

HEARING
BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE
OF THE
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EXPORT TRADING COMPANY LEGISLATION

TUESDAY, SEPTEMBER 30, 1980

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

Washington, D.C.

The subcommittee met at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Fernand J. St Germain (chairman of the subcommittee) presiding.

Present: Representatives St Germain, Annunzio, Ashley, Barnard, Wylie, Hansen, Leach, and Bethune.

Chairman ST GERMAIN. The subcommittee will come to order. This morning we open hearings on export trading company legislation. A number of bills have been introduced, and most of these cross jurisdictions of several committees of the House. This subcommittee's principal concerns are the key sections of the legislation which would, for the first time in the history of this Nation, grant commercial banks the authority to make equity investments in export trading companies. This is a giant step in the expansion of banking powers, and if this legislation is enacted it will mean a substantive breach in our longstanding policy against the mixing of commerce and banking powers.

The Senate has passed S. 2718, the so-called Stevenson bill, which gives banks extremely broad powers for investment in export companies.

It is reasonable to assume that large commercial banks will follow their investments in export trading companies into local communities around the Nation. This development will undoubtedly have a bearing on future competitive relationships among money center banks, regional banks, and local independent banks.

It is essential that we fully explore all of these questions before making our recommendations to the full House. At a minimum, we should discover what the legislation will mean for: first, the traditional separation of banking and commerce; second, the safety and soundness of banking institutions; third, the competitive balance in the financial industry; and fourth, the promotion of exports.

All of us on this subcommittee, and I suspect throughout the Congress, are solidly behind the desire to increase exports of U.S. products. I would not take a back seat to anyone in the support of export promotion, but I also believe we must make certain that we are providing real remedies, not quick fixes that may create more dislocations in the economy.

The thrust of many of these bills suggests that banks are the problem—that they haven't been participants, and that they will

play the export game only if they have a piece of the action in the form of equity investments. Frankly, I don't know whether this is the case or not, and I am hopeful that full hearings will give us some answers.

This morning we will hear from the Honorable Abraham Katz, Assistant Secretary for International Economic Policy, who is substituting for Secretary Klutznick, whom I understand is at the White House at this moment; as well as a panel consisting of Peter Howell, vice president, International Relations Unit, Citibank; and H. Robert Heller, vice president for international economics, Bank of America.

We will first hear from the panel. Mr. Howell and Mr. Heller, if you would approach the witness table.

And at this point I would recognize my colleague, Mr. Wylie. Mr. WYLIE. Thank you, Mr. Chairman. I have an opening statement which I would ask unanimous consent to insert in the record at this point.

Chairman ST GERMAIN. Without objection.

Mr. WYLIE. I would just like to summarize, if I may. As the subcommittee begins these hearings on this export trading company, it probably should be the first of a series of hearings to indicate what measures we should pass to stimulate exports. The statements of proponents, which I had an opportunity to glean through, were optimistic, even though somewhat vague, and maybe they have to be at this point, I am not sure.

There is reason to believe that the authorization of bank investment in export trading companies may be somewhat helpful in assisting American industry to increase its export activities. There are difficult questions regarding the conditions under which the various banking agencies would be called upon to regulate bank participation. It is important that the subcommittee as well as the export community recognize that the bill that is before us today should not be regarded as a substitute for an effective export policy.

I might say that although I am inclined to pass an export trading bill if we could get the bugs out of it, I hope that if it is passed it will not be an indication that we have resolved the serious task of addressing the need for fundamental changes in export and economic policy vis-a-vis our performance in the world market.

I thank you very much for allowing me to give this opening statement.

[Congressman Wylie's complete opening statement follows:]

OPENING STATEMENT OF CONGRESSMAN CHALMERS P. WYLIE

Mr. Chairman, as the subcommittee begins what probably should be just the first of a series of hearings on measures to stimulate exports, I have just a few observations to make, based on the testimony for today's hearings and the impressions gained from meetings I have had with proponents of bank participation in export trading companies:

1. The statements of proponents of export trading company legislation as to what the legislation would accomplish and the extent to which their institutions would participate in export trading companies, if they were permitted to participate, are vague. What this Subcommittee will not know about export trading companies in particular and U.S. export policy in general will fill volumes, even after today's hearings.

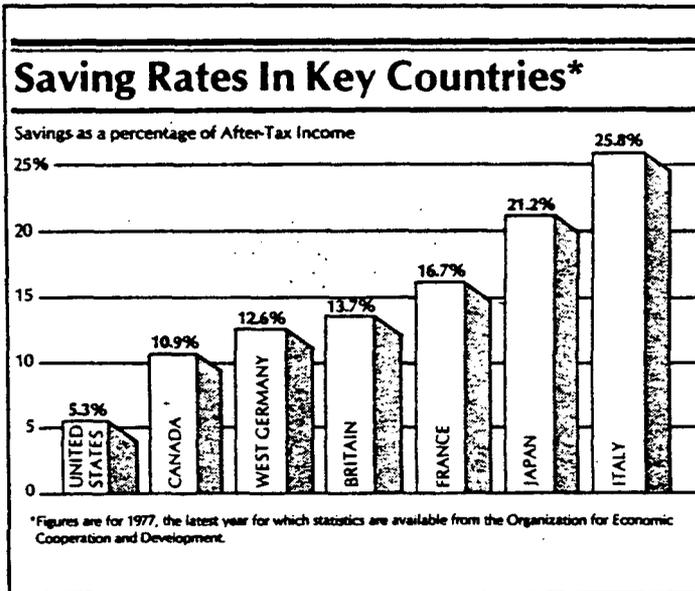
2. There is reason to believe that the authorization of bank investment in export trading companies may be helpful in assisting American industry to increase its

export activity. Although even proponents of export trading company legislation make only limited claims as to the contribution such companies could make in improving this country's trade and payments balances, it is desirable to explore every opportunity to achieve even "marginal" gains.

3. There are difficult questions regarding the conditions under which the various banking agencies would be called upon to regulate bank participation in export trading companies. The major concern is that regulations may be so restrictive as to unduly inhibit banks in their export activities and that the regulators may be called upon to make an excessive number of what are essentially business judgments.

It is important that this Subcommittee, as well as the export community, recognize that the passage of the legislation which is before us today should not be regarded as a substitute for an effective export policy. Nothing could be worse than to create the impression that a new group of export trading companies promoting U.S. exports is going to make up for the tremendous deterioration in the competitive position of the American economy which has persisted as a result of the deficit spending and excessive taxation policies pursued by the Carter Administration.

As a member of the Joint Economic Committee, I am acutely aware of the damage which these policies have done to the investment climate in this country and to the ability of American industry to compete effectively in world markets. The Organization for Economic Cooperation and Development has provided the following chart of the savings rate of the United States and its major trading partners:



The U.S. rate is by far the lowest, this has become a chronic condition, and I submit that correcting this problem is even more important in improving our ability to compete than authorizing banks to participate in export trading companies, although, this, too, is important.

I think passing one of these bills before us today will be worthwhile even for the slight benefit which may result from giving American banks the opportunity to use a device which their foreign competitors have employed successfully for years. Much more important, however, is for this Congress to act on several proposals which can make a significant, not just a marginal, difference in the nation's ability to earn its keep in world markets, and which have been languishing in the Congress, as a result, in some cases, of opposition from the White House.

The news articles which Chairman St Germain has placed before us today testify better than I can to the dismal performance of the Carter Administration in the export field.

Business Week, in its July 21 issue, said, "A half-hearted reorganization of Washington's creaky trade bureaucracy this year, forced on a reluctant Administration by Congress, has deprived the export program of badly needed leadership. . . ."

The Wall Street Journal said of the Senate's export trading company bill, "The attention of policymakers would be better directed at silly impediments to exports, such as the double taxation of U.S. citizens abroad. The attention of businessmen would be better directed to learning about foreign markets and selling there."

Let's pass an export trading company bill, if we can get the "bugs" out of it. But, in no case should this Subcommittee or this Congress allow these export trading company proposals to distract us from the serious task of addressing the need for fundamental change in economic policy and export policy, to reverse the protracted decline in U.S. performance in world markets.

Chairman ST GERMAIN. We will first hear from Mr. Howell. We will place your entire statement in the record, and you may proceed.

**STATEMENT OF PETER HOWELL, VICE PRESIDENT,
INTERNATIONAL RELATIONS UNIT, CITIBANK**

Mr. HOWELL. Thank you, Mr. Chairman. Let me say that, speaking for myself personally, I am really pleased to be a part of these hearings. I think the legislation has some interesting and possibly far-reaching implications, and I think these implications go to the heart of a problem, which is perhaps one of the most compelling issues we face today. And that is, to my mind, whether we have the willingness and the wisdom to adapt our institutions to changing international circumstances, without compromising our basic values.

Now, if it pleases the subcommittee, I am prepared to read my statement, which is relatively brief. Given the fact that it was prepared for the most part within the last 48 hours. I recognize that some members of the subcommittee may not have had a chance to give the statement the serious scrutiny that it may or may not deserve.

Chairman ST GERMAIN. You may proceed.

Mr. HOWELL. My testimony will refer by and large to S. 2718, unless otherwise noted, and I will focus these remarks for the most part on the issues and implications arising from the provisions for bank ownership of export trading companies.

In attempting to address these issues in a manner which will be most responsive to the subcommittee's interest, I believe it may be useful to divide the issues into those that relate to the capability of banks as vehicles for promoting export trading services and those that pertain to the question of whether banks may be expected to find the provision of such services on the terms and within the constraints provided for in the legislation, attractive.

My observations on the likely efficacy of the legislation in general will be included in my discussion of the foregoing considerations.

In functional terms, the legislation would offer commercial banks the opportunity to enter indirectly into the following activities in which they are not presently permitted to engage: First, trading in goods and services, over and above currency trading and financial services; second, taking positions in commodities or commodities contracts, and, I infer, manufactured goods as well, provided such positions are not speculative; third, providing nonfinancial services incidental to the administration or promotion of merchandise or

services trade; and finally, establishing joint ventures with other financial or nonfinancial firms, all for the purpose of strengthening our export competitiveness in international markets.

While the capabilities and objectives of U.S. banks vary greatly according to their resources and strategic outlook, the major U.S. money center and regional banks, in particular, those with extensive overseas branch networks, have obvious attributes which equip them to act as vehicles for export trading companies.

Among those attributes are a considerable knowledge of overseas markets encompassing many industries, a highly developed and technologically sophisticated operational and communications capability for processing trade financing transactions, and perhaps most important, the risk assessment and control procedures, and management processes generally, that are appropriate to a diversified international trading business.

Trade financing is, and of course always has been, among the most fundamental of all commercial banking functions, and because of its generally short-term, secured, and self-liquidating nature, it is generically one of the soundest forms of credit.

It is also one of the most attractive and competitive forms of financing. This is because trade flows offer the bank multiple income sources and a continuum of transactions, one leading to another as the goods change hands or proceed through the various stages of processing, assembly, or manufacture. Banks generate not only interest income on credit extended to finance the transactions, but also commission income on any letters of credit opened between the parties, who may be unknown to each other, as well as exchange income on foreign exchange sold by the bank to the importer, who will use that foreign exchange to pay the seller.

Furthermore, beyond the trade transaction itself, there are opportunities to extend the bank's involvement to include financing the acquisition, processing, or storage of the goods before they are exported, as well as financing further processing, storage, and sale at the point of destination.

For example, in a typical situation, a foreign heavy equipment dealer might approach the overseas branch, affiliate, or correspondent of a U.S. bank with an application to open a commercial letter of credit to import tractor components manufactured in the United States. In this instance, the initial or entry transaction, from the bank's viewpoint, is more or less in the middle of the manufacturing-trade continuum.

If the account officer at the overseas branch or affiliate office is on his toes, he will promptly communicate news of this relationship to his head office or parent with the objective of extending the relationship to the U.S. manufacturer. Likewise, assuming the overseas importer is creditworthy, he will seek to expand that relationship by offering to finance the imported components after they have been received through, and even beyond, the point of sale.

This might involve financing the inventory during assembly, so-called floor-plan financing, and sales finance via conditional sales, hire-purchase, or lease financing. At the point of sale, a new customer relationship might be developed with the equipment buyer.

The variations on, and the extent of, this transaction continuum are limited only by the industry and imagination of the banker.

Finally, apart from the market economics, I can think of no country which is not vitally concerned about its export performance and which does not offer some form of export incentives which impact the banks. For all these reasons, trade financing is highly competitive, and I believe it is a fair generalization to say that hundreds, and perhaps even thousands, of U.S. banks have vigorously and relentlessly promoted trade financing.

I would contend, therefore, that with respect to the principal export trading functions of our U.S. banks possess the resources and the relevant skills and experience, either alone or with others, to qualify them as owners of export trading companies. I acknowledge that banks may not have extensive experience in some of the ancillary functions of trading companies and associations contemplated in the legislation, such as architectural and engineering services.

On the other hand, many of these ancillary services, such as consulting and product market research, while not financial services per se, clearly involve resources and techniques which many banks have adapted and developed to a considerable degree.

A more difficult question, to my mind, is whether this legislation is likely to achieve the desired effects of improving our export performance and, in turn, strengthening our economy. My answer is that it will, but the manner, extent, and time frame in which this improvement will occur is difficult to discern. It is one thing to lift an interest ceiling or relax a pollution control standard. The effects of such changes are relatively focused and direct.

This legislation, on the other hand, potentially affects all industries, and it does so by broadening the field of opportunity rather than by mandating or restricting market behavior. It is, on balance, liberal and constructive, as opposed to restrictive, legislation, in principle.

Whether we would choose to invest in such a company is a decision that we have not made, and it is not at this point a high priority item at Citibank. Nevertheless, we believe that others should have the opportunity to participate if their policies, resources, and plans lead them to conclude that they should do so.

This legislation appears to be directed to small, medium size, and minority concerns, yet I infer that the bank ownership provisions are premised on the assumption that the essential resources may be drawn from either money center or regional U.S. banks. This raises a fundamental and, based on previous testimony, perhaps the most debatable issue with respect to the efficacy of this legislation. That issue is the maximum permissible percentage of bank ownership.

The bank regulatory authorities are concerned about the prudential implications of permitting banks to own a significant stake in commercial trading companies. They wish to preserve, to the maximum extent possible, our traditional separation between banking and commerce. There is, in my judgment, no clearly right or wrong solution to this issue, but I believe the tradeoffs cannot be denied.

Many banks, I suspect, will have reservations about committing resources, however limited, to a trading company in which they

have only a portfolio investment. The prudent approach may be to limit banks to portfolio, or at most noncontrolling, investments, but too restrictive a limitation on bank ownership may largely negate what appears to be one of the basic premises of the legislation: That is, the active participation of banks in the trading companies.

I believe that, based on their experience, particularly during the sixties and seventies, many banks would subscribe to the proposition that the greater the perceived risk in and commitment of resources required for a new venture, the greater the need for control. I suspect, therefore, many banks may want authority commensurate with their responsibility, which is to say management control and a return sufficient to justify their resource commitment and protect their exposure.

Chairman ST GERMAIN. Excuse me, Mr. Howell. Are you saying that you essentially feel that the Senate bill has a limitation on the amount of participation that would probably be a deterrent to participation by financial institutions such that they would want a greater amount of control?

Mr. HOWELL. Mr. Chairman, I am not speaking with respect to any particular provisions. I think the Senate bill, as I understand it, is an acceptable arrangement.

Chairman ST GERMAIN. The Senate bill restricts it to a 20-percent equity participation.

Mr. HOWELL. I think that may in fact involve disincentives which for many banks would be a severely limiting consideration. It is hard to generalize, because the banks vary in terms of their outlook to such a degree.

Chairman ST GERMAIN. We are asking for your opinion.

Mr. HOWELL. I think that would involve a significant qualification in terms of the attractiveness of the legislation, and therefore its efficacy.

Chairman ST GERMAIN. Therefore, you feel that the banks should be allowed a greater participation?

Mr. HOWELL. That is right.

Chairman ST GERMAIN. Thank you. I am sorry to interrupt.

Mr. HOWELL. Smaller banks, or others which feel they are able to protect themselves by prudent initial investment decisions, may view this legislation somewhat differently. They may—and this is conjecture—be more receptive to a minority or even portfolio investment together with other banks as a means of expanding their international business and protecting their relationship with export-oriented clients.

A final qualifying consideration from the bank's viewpoint is the considerable responsibility and discretion conferred upon the Federal banking agencies, which raises the prospect of a heavy, and possibly discouraging, burden of regulation.

It may be, perhaps for the reasons cited above, that this legislation will find its principal appeal not among the large money center banks, but among the regional and smaller banks which are close to middle market customers—who are, in turn, the prime targets of this legislation. Whereas the banking industry's response to the Edge Act may be regarded as modest in terms of the percentage of U.S. banks which have established Edge subsidiaries, smaller banks may more favorably regard this legislation as an

opportunity to pool their resources and thereby expand their relationships with their export-oriented clients.

The principal issue posed by this, as with virtually all legislation, is whether the perceived benefits, which are less than certain in my judgment, justify the tradeoffs.

This legislation does not represent an ideal solution to our export problems; there is no ideal solution. I need not reiterate here our need to manage the far more fundamental challenges of inflation, dwindling savings and investment, and declining productivity, which are the ultimate causes of our export problems.

Given the unprecedented challenge to our international economic competitiveness and the foreign government-supported nature of that challenge, innovative solutions are called for.

It has been over half a century since the Webb-Pomerene and Edge Acts were enacted. These acts contained provisions which acknowledged that the standards and rules which we have chosen to govern our domestic competition are not necessarily or entirely appropriate, or in our national interest, in international competition.

Recognizing the limitations and controls in the proposed legislation and the considerable discretion given to the regulators, I believe this legislation, on balance, represents a manageable deviation from our traditions. It recognizes and is responsive to current realities. While economic interdependence is an overworked term, it is nonetheless relevant to this legislation.

We no longer compete in insulated national markets, and nowhere is this more dramatically evident than in the United States. Technology is creating an integrated global economy, and if we are to withstand the challenges of foreign competition at home and abroad, we must, it seems to me, be willing to try such institutional innovations as we believe will strengthen our private enterprise system.

In summary, this legislation establishes controlled conditions for what may be regarded as a constructive institutional experiment. While export trading companies may take root and flourish as a kind of late blooming feature of our otherwise mature economy, it is not realistic, in my judgment, to expect them to make more than a marginal contribution to our balance of payments. Far more fundamental factors will be the principal determinants of our success in restoring our international competitiveness and strengthening our export and balance-of-payments performance.

That is all, Mr. Chairman.

Chairman ST GERMAIN. We will now hear from H. Robert Heller, vice president for international economics of the Bank of America. We will put your entire statement in the record, without objection. You may proceed.

STATEMENT OF H. ROBERT HELLER, VICE PRESIDENT FOR INTERNATIONAL ECONOMICS, BANK OF AMERICA

Mr. HELLER. Thank you very much, Mr. Chairman. Bank of America is very pleased to have the opportunity to express its views on the desirability of the export trading company legislation. We believe that the proposed legislation to encourage exports by facilitating the formation of export trading companies addresses an

important problem and that the Senate bill, S. 2718, will result in a highly desirable enhancement of America's competitive position abroad. Bank of America fully supports the intent of this legislation.

The competitive performance of the United States in the international markets has traditionally been strong, reflecting the inherent dynamism of the U.S. economy. The fact that the country achieved a merchandise export surplus in every single year of this century up to 1970 attests to the basic competitiveness of American business in the world economy.

That year, however, marks a distinct watershed in our trade performance. The decade of the seventies brought a cumulative merchandise trade deficit in excess of \$110 billion. Not much is gained by pointing at rapidly rising import payments for oil as the sole cause of our difficulties. The deficit emerged before the oil price increase and the superior performance in the trade sector by Germany and Japan, both of which are almost completely dependent upon foreign sources of petroleum, exposes the weakness of that argument.

It is time to turn the tide and to start earning our keep again in the world economy. Although that task will not be easy, our leadership is on the line. Not only are U.S. productivity gains low or nonexistent, but our high inflation rate continues to erode the competitive position of the United States abroad. To look at the continuing depreciation of the U.S. dollar in any way as the solution to that problem would be highly inappropriate.

It should also be kept in mind that the world environment will be such that it will not be easy to make substantial gains in U.S. trade performance in the years to come. Overall, increases in world trade will be slow, and competitive pressures will intensify.

U.S. exporters will face intensive competition for slowly expanding world markets. Almost all industrialized countries nowadays face large current-account deficits and will be redoubling their efforts. The same holds true for the non-oil-developing countries that look toward world markets as major outlets for their newly acquired industrial capacity.

Virtually every developing country views exports as the key to its own growth strategy. The combined impact of these factors will make it increasingly difficult for U.S. producers to expand exports rapidly. And therefore, farsighted and consistent Government leadership will be required to foster an export-oriented business climate.

At the same time, we must recognize that trade is a two-way street and that open international markets ultimately benefit both exporting and importing nations. U.S. policy has provided a certain measure of support to export industries through the Export-Import Bank, the DISC's and the variety of Department of Commerce-sponsored export promotion programs. Many of these programs were developed in response to similar export incentives offered by competing countries.

But it should not be forgotten that U.S. corporations also face many Government-imposed obstacles and sometimes ambiguous reporting requirements that are seen by many businessmen as an active deterrent to involvement in international commerce.

While it is not possible to offer a quantitative assessment of the contribution that export trading companies are likely to make in fostering U.S. trade, it is clear that the contribution will be positive. Export trading companies have been highly successful both here and abroad. The role of the large Japanese trading companies is unequaled in the world economy. At the same time, in some unique fields U.S. trading companies have also been highly successful. Their activity is concentrated in the grain trade, and their strength and success emanate from their ability to provide a complete foreign-trade service package, and they contribute greatly to our strong performance in the agricultural field.

The question is whether the success story of the foreign general trading companies and the American grain trading companies can be repeated and, in particular, whether the legislation before you will be adequate to provide the appropriate incentives.

Of course, it will not be possible to merely copy the Japanese example, as the entire legal, social, political, and economic framework is very different between the two countries. Nevertheless, certain requirements can be identified that will be crucial to the success of the export trading companies that this legislation is designed to foster. I will comment here in particular from the vantage point of Bank of America and focus on the assistance that banks such as ours may be able to lend in an effort to make the export trading companies successful if significant bank equity participation is permitted.

First of all, a thorough knowledge of foreign markets and financing requirements is an essential element to the success of any export effort. And it is an area where foreign trading companies have been the leaders. American bankers also have a well-established track record in this field, having developed foreign markets for their own services and gained significant knowledge about market conditions abroad. Their extensive foreign contacts and expertise in dealing with other nations can constitute an important source of market information to American export trading companies.

Second, familiarity with the products to be sold is another important ingredient to their success. The trading companies will have to compete with direct representatives of local and foreign corporations, and only an industry expert is likely to have the specialized know-how required to win new customers. Banks have had to acquire much of this specialized knowledge in the course of their regular financing activities.

Third, a continuing relationship of the trading company with the U.S. manufacturers will be essential. It is, therefore, important that the trading company offer a unique and consistent broad-based service that cannot be easily duplicated. Bank-related trading companies should be able to fulfill this key function because of their financing expertise.

Finally, the ability to provide a complete financing package, if required also in foreign currencies, often provides the margin necessary to sign an export contract. The banks' ability to structure appropriate financial packages and their access to financial resources may be crucial for the success of the trading companies.

In all four areas essential to the success of an export trading company, equity participation by banks will offer significant advantages that could easily spell the difference between success and failure.

Bank of America feels strongly that the safeguards contained in the Senate bill, S. 2718, adequately protect the financial safety, soundness, and stability of banking organizations. The legislation establishes very conservative limits to the amount of capital that banks may invest in export trading companies. It prohibits banks from making loans to an affiliated trading company on more favorable terms than comparable borrowers. And it also prohibits bank-owned companies from speculating in commodities.

It should also be recognized that in addition to the powers the legislation gives to the regulatory agencies to terminate domestic bank investment in a risky export trading company, the numerous laws governing financial institutions will indirectly make domestic bank-owned export trading companies probably the most diligently scrutinized companies in the entire industry.

Many bankers see it as preferable to have majority control over the trading companies. Majority control will contribute greatly to the banks' commitment to make the trading companies a success. And it will enable the banks to take appropriate measures, if necessary, to assure the stability of the trading company.

But only a majority interest will put the banks in a position to exercise this control. In contrast, a banks' minority participation in a trading company may expose its capital to risks over which it has less control and may, therefore, make the bank reluctant to participate in the venture in the first place.

In summary, the legislation before us offers an innovative and promising step in our Nation's effort to enhance the export performance of American industry. The severity of the trading problem requires that we swiftly take all steps possible, leaving no avenue unexplored. The trading company experience of other nations indicates that integrated comprehensive export trading companies constitute a promising option that should be fully exploited. What we really should be asking ourselves here is not what are the reasons why we should have export trading companies, but why should we prohibit the participation of our financial institutions from such a promising venture.

Let us also recognize, however, that export trading companies will be no panacea that will solve all our problems in the foreign-trade area, but we believe that it is a step in the right direction, and has therefore the full support of the Bank of America.

Thank you.

[Mr. Heller's prepared statement, on behalf of the Bank of America, follows:]

THE EXPORT TRADING COMPANY ACT OF 1980

Statement by
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San Francisco, California

Before the
U. S. House of Representatives
Subcommittee on Financial Institutions,
Supervision, Regulation and Insurance

of the
Committee on Banking, Finance and Urban Affairs
Washington, D.C.

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Bank of America is pleased once again to have the opportunity to express its views on the desirability of the export trading company legislation. We believe that the proposed legislation to encourage exports by facilitating the formation of export trading companies addresses an important problem and that S.2718 will result in a highly desirable enhancement of America's competitive position abroad. Bank of America fully supports the intent of this legislation.

The competitive performance of the United States in the international markets has traditionally been strong, reflecting the inherent dynamism of the U.S. economy. The fact that the country achieved a merchandise export surplus in every single year of this century up to 1970 attests to the competitiveness of American business in the world economy. That year, however, marks a distinct watershed in our trade performance. The decade of the seventies brought a cumulative merchandise trade deficit in excess of \$110 billion. Not much is gained by pointing at rapidly rising import payments for oil as the sole cause of our difficulties. The superior performance in the trade sector by Germany and Japan, both of which are almost completely dependent upon foreign sources of petroleum, exposes the weakness of that argument.

It is time to turn the tide and to start earning our keep again in the world economy. That task will not be easy, but our leadership is on the line. Not only are U.S. productivity gains low or non-existent, but our high inflation rate continues to erode the U.S. competitive position. To look at a continuing depreciation of the U.S. dollar in any way as the solution to that problem would be carrying theoretical notions too far.

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It should also be kept in mind that the world environment will be such that it will not be easy to make substantial gains in U.S. trade performance. Overall growth in world trade will be slow and competitive pressures will intensify. U.S. exporters will face intensive competition for a slowly expanding market. After adjustment for inflation, world trade will grow at annual rates of 2 to 3 percent in the early 1980s, compared with an annual average growth rate of about 6 percent in the decade of the 1970s. The reasons for this sobering outlook are manifold: increased energy costs will slow the overall growth of the world economy. At the same time, high priced oil imports judged to be essential will force many countries to reduce their other merchandise imports.

U.S. exporters will also be faced by intensifying competition from abroad. Almost all industrialized countries face large current account deficits and will be redoubling their export efforts. The same holds true for the non-oil developing nations that look towards world markets as a major outlet for their newly acquired industrial capacity. Virtually every developing country looks towards increased exports as the key to its growth strategy.

Regional trading blocks are also becoming increasingly important. For example, intra-European trade—fostered by the policies of the European Community—now accounts for almost 60 percent of all trade by these countries, while the U.S. market share in the EEC countries is only 8 percent. The high unemployment rates prevailing in many countries continue to increase pressure for protectionistic measures to safeguard domestic markets.

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The combined impact of all these factors will make it increasingly difficult for U.S. producers to expand exports rapidly. Farsighted and consistent government leadership will be required to foster an export-oriented business climate. At the same time we must recognize that trade is a two-way street and that open international markets ultimately benefit both exporting and importing nations.

U.S. policy has provided a certain measure of support of export industries through the Export-Import Bank, the legalization of Domestic International Sales Corporations, and a variety of Department of Commerce sponsored export promotion programs. Many of these programs were developed in response to similar export incentives offered by our competitor countries. But it should not be forgotten that U.S. corporations also face many government imposed obstacles and sometimes ambiguous reporting requirements that are seen by many businessmen as an active deterrent to involvement in international commerce.

While it is not possible to offer a quantitative assessment of the contribution that export trading companies are likely to make in fostering U.S. trade, it is clear that the contribution will be positive. Export trading companies have been highly successful abroad and in this country. The role of the large Japanese trading companies is unequalled in the world economy. For instance, in 1978 the top nine Japanese trading companies grossed almost \$220 billion in sales and accounted for approximately half of Japan's exports and imports, employing directly over 60,000 persons.

In some unique fields U.S. trading companies have also been highly successful. Their activity is concentrated in the grain trade, where their

trading volume is approximately \$50 billion per year. They specialize in global market intelligence, shipping, insurance, finance, and sales. Typically, they purchase their grain stocks domestically from small farmers and cooperatives that would not be able to market their commodities abroad and then resell the grain to virtually every part of the world. In short, the strength and success of the existing trading companies emanate from their ability to provide a complete foreign trading service package and contribute greatly to our strong performance in the agricultural field.

The question is whether the success story of the foreign general trading companies and the American grain trading companies can be repeated and--in particular--whether the legislation before you will be adequate to provide appropriate incentives. Of course, it will not be possible to merely copy the Japanese example as the entire legal, social, political and economic framework is different between the two countries.

Nevertheless, certain requirements can be identified that will be crucial to the success of the export trading companies that this legislation is designed to foster. I will comment here in particular from the vantage point of Bank of America's senior management and focus on the assistance that banks such as ours may be able to lend in the effort to make the export trading companies successful if significant bank equity participation is permitted.

1. Foreign marketing expertise. A thorough knowledge of foreign markets and financing requirements is an essential element to the success of any export effort, and it is an area where foreign trading companies have been the leaders. American bankers also have a well established track

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record in this field, having developed foreign markets for their own services and gained significant knowledge about market conditions abroad. Their extensive foreign contacts and expertise in dealing with other nations can constitute an important source of market information to American export trading companies.

2. Product knowledge. Familiarity with the products to be sold is another essential ingredient to the success of a trading company. The trading company will have to compete with direct representatives of local and foreign corporations and only an industry expert is likely to have the specialized know-how required to win new customers. Banks have had to acquire much of this specialized knowledge in the course of their regular financing activities.

3. Strong ties to manufacturers. A continuing relationship of the trading company with the U.S. manufacturers will also be essential. It is therefore important that the trading company offer a unique and consistent, broad-based service that cannot be easily duplicated by the manufacturer at lower cost. Bank-related trading companies should be able to fulfill this key function because of their financing expertise.

4. Access to Financing. The ability to provide a complete financing package--if required also in foreign currencies--often provides the margin necessary to sign an export contract. The bank's ability to structure appropriate financial packages and their access to financial resources may be crucial for the success of the trading companies. While the availability of an attractive financing package cannot assure a successful sale, its absence may well represent an insurmountable obstacle.

In all four areas essential to the success of an export trading company equity participation by banks will offer significant advantages that could easily well spell the difference between success and failure.

Bank of America feels strongly that the safeguards contained in S.2718 adequately protect the financial safety, soundness and stability of banking organizations. The legislation establishes conservative limits to the amount of capital that banks may invest in export trading companies. It prohibits banks from making loans to an affiliated trading company on more favorable terms than comparable borrowers and prohibits bank-owned companies from speculating in commodities. It should also be recognized that in addition to the powers the legislation gives to the regulatory agencies to terminate domestic bank investment in a risky export trading company, the numerous laws governing financial institutions will indirectly make domestic bank-owned export trading companies probably the most diligently scrutinized companies in the industry.

Those critical of bank participation in export trading companies also neglect to recognize the prudent restraints likely to be self-imposed by the banking industry itself. I am confident that most banks recognize that they will be entering a new area, and will do so with caution. Of course, this also implies that it will take time to show significant results. It is here that government guarantees can lend an important start-up assistance.

Many bankers see it as preferable to have majority control over the trading companies in most instances. Majority control will contribute greatly to the banks' commitment to make the trading company a success, and

will enable the banks to take appropriate measures, if necessary, to assure the stability of the trading company. Only a majority interest will put the banks in a position to exercise this control. In contrast, a bank's minority participation in a trading company may expose its capital to risks over which it has less control and may, therefore, make the bank reluctant to participate in the venture in the first place.

In summary, the legislation before us offers an innovative and promising step forward in our nation's effort to enhance the export performance of American industry. The severity of the trade problem requires that the nation swiftly take all steps possible, leaving no avenue unexplored. The trading company experience of other nations indicates that integrated, comprehensive export trading companies constitute a promising option that should be fully exploited.

The export trading company concept is no panacea that will solve all our problems in the foreign trade area, but it is a step in the right direction that has the full support of Bank of America.

Chairman ST GERMAIN. Thank you, Mr. Heller.

Mr. Heller and Mr. Howell, the Federal Reserve Board has suggested an amendment that would limit the participation beyond the 5 percent of capital. Of course, 5 percent of capital for the Bank of America and Citibank is no problem. But the Fed wanted a limitation of 20 percent of equity participation.

You would therefore—and incidentally, that was on a divided vote within the Fed, because there were those at the Fed who feel very strongly that the bridging of the wall between commerce and banking should not occur. However, they compromised on this 20 percent, and the amendment did not succeed in the Senate.

You, from what I understand from your testimony, Mr. Howell, would oppose the Fed position. Is that correct?

Mr. HOWELL. Yes, we would oppose the majority participation of up to 100 percent. I believe the legislation in the Senate provides for approval by the regulatory authorities of any investments in excess of 20 percent. And that particular provision would be acceptable to the bank.

Chairman ST GERMAIN. Mr. Howell, I believe you answered that question. Mr. Heller, U.S. grain trading companies, as you say, are very successful and include many of the factors necessary as essential for a successful trading company. That being the case, why haven't these grain trading companies expanded?

Mr. HELLER. I believe it is a specific industry expertise that is necessary in each and every commodity covered by the export trading companies.

Chairman ST GERMAIN. They had to acquire the expertise in grain trading. Therefore, they could acquire that same expertise in other areas; could they not? The Holy Ghost did not come down and lay the hands upon the heads of these people and impart all knowledge about grain trading. They had to learn; didn't they?

Mr. HELLER. That is right. But I think we all recognize that when you go outside your particular area of expertise, the risks to be managed are greatly multiplied. What you have to obtain is not only an expertise about grain trading or other commodities, but you also have to obtain a great knowledge about the markets that you are intending to serve. So you have got to have people in these foreign countries that know about the customers' desires to acquire these particular products; and you have got to acquire at the same time the domestic ability to know about what domestic manufacturers are able to produce.

So you have got to put all pieces in place. And I think this is a major effort. As you say, there is no reason why that particular experience cannot be duplicated anywhere else.

Chairman ST GERMAIN. How are these trading companies financed? Where do they obtain their capital?

Mr. HELLER. The grain trading companies, or the general international trading companies?

Chairman ST GERMAIN. The grain trading companies.

Mr. HELLER. I believe most grain trading companies are privately owned companies.

Chairman ST GERMAIN. Is there any bank participation? Obviously not. But they were able to obtain capital, private capital.

Mr. HELLER. That is right. Or they may also have bank loans, but there is no bank equity participation. I guess that is what we are talking about.

Chairman ST GERMAIN. Yet they were able to form and succeed without equity participation from the financial institutions.

Mr. HELLER. Correct.

Chairman ST GERMAIN. Peculiar, isn't it, that other industries can't do the same?

Mr. HELLER. I think the grain trading companies may have one inherent advantage, and that is that they are dealing in a very standardized commodity. Everybody knows that grain is an easily traded commodity, and everybody knows exactly what we are talking about. If you are talking about different fields—let us say, computers or microprocessors or bicycles or any manufactured commodity—you do not have the standardized commodities. And therefore, I think there are some additional difficulties involved. But they can be overcome, as the example of Japanese trading companies clearly shows, and the American trading companies that are in existence on a very small scale.

Chairman ST GERMAIN. Mr. Howell, Citibank recently ran a very attractive magazine ad, very colorful. It has a Christmas tree in it here and what have you. And the ad says—or the lead to the ad says: "How Citibank trade financing helped a Taiwan export company grow 1,000 percent in 12 years." Are you familiar with that ad?

Mr. HOWELL. Yes, I am.

Chairman ST GERMAIN. Now, is Citibank doing the same for any U.S. trading companies at the present time?

Mr. HOWELL. I would have to say that we are indeed, yes.

Chairman ST GERMAIN. You are?

Mr. HOWELL. In general terms. I don't know that I could point to specific examples. But, yes, certainly we are.

Chairman ST GERMAIN. Mr. Heller, is Bank of America financing U.S. trading companies, lending money to U.S. trading companies?

Mr. HELLER. Yes.

Chairman ST GERMAIN. Mr. Howell, you have discussed the current state of the art in export financing and conclude that it is a highly competitive area. Hundreds of banks have vigorously and relentlessly promoted trade and finance. Do these hundreds of banks also finance export trading companies? I believe you answered that.

Mr. HOWELL. Yes, they do.

Chairman ST GERMAIN. Mr. Heller, on page 6 you state banks recognize that this is a new area and that they will proceed with due caution. You also state, and I quote:

Of course, this also implies it they will take time to show significant results. It is here that the Government guarantees could lend an important start-up assistance.

Are you therefore stating that this is a risky area and the Government should protect the banking industry from those risks?

Mr. HELLER. Well, it is inherently not more risky than other areas that banks are engaged in. After all, it is the bank's business to take certain risks in its lending operations. But I think also, if you are entering a new area, you have got to proceed with caution, and you have got to build slowly a track record and to find out what are the possible pitfalls in these particular areas.

Therefore, I believe the banks will be operating rather slowly in an initial period. If it is desired, as it is obviously in the national interest, to have a very rapid expansion of these companies, then special Government assistance may be required for that particular purpose.

Chairman ST GERMAIN. A bank like yours and Citibank, however, with the knowledge you already have in this area, lending to trading companies, you wouldn't consider it that risky an area for your institution?

Mr. HELLER. Well, I believe we don't consider it an extremely risky area, as such. But, again, we do not have any expertise in running trading companies ourselves. And we do not have expertise in the commodity trading aspects. Therefore, I think we would be proceeding rather slowly, trying to get a track record established first.

Chairman ST GERMAIN. Well, it seems to me that the thrust of the legislation, as far as bank participation is concerned, is that you would bring all kinds of expertise to this area, and now you are saying you have got to find the expertise. I mean I am a little confused here.

Mr. HELLER. I think you are correct: we do have expertise in the general area. But nevertheless, there are also certain new aspects to our involvement in these particular export trading companies. Banks inherently being prudent, I do not think that they would go full speed ahead.

Mr. HOWELL. I think it is difficult to discuss this kind of issue in general terms. We really need to talk about it in functional terms. One can make a distinction between the financial services contemplated for the trading companies and the nonfinancial services. I think the banks with international experience, those with international networks and so forth, have, as I said in the statement, very extensive resources and expertise that would be applicable to the trading companies.

I would not deny for 1 minute that there are certain kinds of functions contemplated in the legislation in which the banks have less experience. And it is for that reason, I think, that we would agree with you that the banks would want to proceed carefully, recognizing that there are risks involved in those ancillary—what I have described as ancillary—nonfinancial functions.

But that doesn't, I think, detract from the fact that if you are looking for a particular type of vehicle that probably can bring more to the party than any other kind of vehicle, it would probably be the banks by virtue of their basic financial competence, documentation, their international network, their market knowledge and knowhow. These kinds of resources.

Chairman St GERMAIN. So you are looking for Government guarantees as an insurance while you are learning in these new areas that you are not familiar with?

Mr. HOWELL. I would think that they might be a useful device, as a kind of a startup situation; that is right.

Chairman St GERMAIN. Would you agree to a sunset on guarantees?

Mr. HOWELL. I would agree with that, I guess.

Chairman St GERMAIN. Mr. Annunzio.

Mr. ANNUNZIO. Thank you, Mr. Chairman.

I have a question for Mr. Howell: Do you favor passage of S. 2718?

Mr. HOWELL. I am sorry, did you say would I favor passage of S. 2718?

Mr. ANNUNZIO. Yes.

Mr. HOWELL. Now, refresh my memory, would you, concerning the provision on bank ownership?

Mr. ANNUNZIO. S. 2718 is the Export Trading Company Trading Act of 1980 that passed the Senate 77-0. Do you favor passage of that legislation?

Mr. HOWELL. I want to be sure I understand. Does that legislation limit bank ownership to 20 percent? It did not, as I recall.

Mr. ANNUNZIO. It does.

Mr. HOWELL. There is some confusion in my mind, and I think maybe others, as to whether the 20-percent limitation was or was not involved.

Mr. ANNUNZIO. That is the Stevenson legislation which does not include the 20 percent.

Mr. HOWELL. Let me put it this way: If it does not include the 20 percent, then I think we would favor that bill; yes.

Mr. ANNUNZIO. Mr. Heller, would you answer that question?

Mr. HELLER. Yes. It is my understanding that the Senate bill provides for a 20-percent participation of banks, without question, and higher participation of banks if permitted by the appropriate

regulatory authority. And we are very much in favor of the entire bill that contains that provision.

Mr. ANNUNZIO. Thank you very much.

Mr. Howell, in your statement, as I recall, you mentioned whether Citibank would go into an export business and participation, and you have to study that further. Did you make that statement?

Mr. HOWELL. I made that statement; yes.

Mr. ANNUNZIO. Is Citibank planning on going out of the credit card business?

Mr. HOWELL. No.

Mr. ANNUNZIO. Is it because they are making enough money on credit cards?

Mr. HOWELL. I would say that it is because we feel that over the longer term we expect—

Mr. ANNUNZIO. There is nothing wrong with making money, you know; all the people that are in business should make money. But the reason that you have some question about going into the exporting business is you want to make sure you are going to make enough money in that business. And I don't blame you. But you are making enough money in the credit card business?

Mr. HOWELL. Let me respond by saying that I think it goes to the very nub of the issue here, that you can't look at this particular legislation in terms of just one side of the risk-reward tradeoff. You have got to look at how much money you are likely to make as against what the risks appear to be in terms of capital and resource commitments.

I think it is in that area that this whole question of bank ownership really arises. You can take, as I say—

Mr. ANNUNZIO. I have no quarrel with that argument, because you are not here to testify for legislation because you might believe in the philosophy of it. You are here more for the pragmatic angle. And you know, I read all of this information on the legislation, how it is going to increase our exports, and when we increase our exports we create more jobs, and when we create more jobs, we lower our balance-of-payment deficit, you see. I mean, that is the philosophy behind the legislation.

But you are telling me that Citibank is studying this thing, not in view of the fact of the philosophy of the legislation, but if it is going to pay off, and I don't blame you for that. I want you to understand that I am just happy that the credit cards have paid off for Citibank, and I hope that an exporting company will pay off also.

That is all, Mr. Chairman.

Chairman ST GERMAIN. Mr. Wylie.

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

Mr. Heller, I have before me an editorial from the Wall Street Journal which raises some rather interesting and difficult questions. I would like for you to respond to them. The editorial says:

The Stevenson bill does pose some dangers, referring to this export trading bill before us today. By endorsing and expanding the principle of export cartels, it undermines the U.S. commitment to an open international trading system. How can we complain about OPEC or Third World cartels if we encourage our sulphur or carbon companies to form their own export cartels?

Mr. HELLER. I don't view it as a cartel. After all, we have 14,000 banks in this country and we have right now probably between 600

and 1,000 foreign trading companies. So there is plenty of competition in that particular export sector.

I think it is a far cry from forming an international cartel that is truly dominating world markets in one particular commodity.

Mr. WYLIE. You think that is a false premise; that is what you are saying?

Mr. HELLER. Yes.

Mr. WYLIE. OK. Mr. Howell, I would like to go on in this editorial. And you may want to answer the previous question for the record, but the editorial goes on to say that:

The attention of policymakers can be better directed at silly impediments to exports, such as the double taxation of U.S. citizens abroad. The attention of businessmen would be better directed to learning about foreign markets and selling there.

Mr. HOWELL. My response is, is that not precisely the intent of the legislation, to encourage American exporters, those companies, manufacturers with export potential, to learn more about the export markets? And really, the question is, how do you get them to do that?

Mr. WYLIE. The editorial then says:

At best, the Stevenson bill is mere gimmickry. It is being marketed under the false pretense that it will help encourage the development of American trading companies comparable to Mitsubishi and the other companies that have been so effective in selling Japanese wares around the world.

Are you familiar with the trading company Mitsubishi?

Mr. HOWELL. Yes.

Mr. WYLIE. What kind of an operation is it? And would you compare it for the record, so that I may know? And how would it compare with this?

Mr. HOWELL. I think we would mislead ourselves if we drew a close analogy between the zaibatsu Mitsubishi type of vehicle and the kind of thing we are contemplating here. I think for many reasons, historical reasons, we are not talking about the prospect of that kind of arrangement, whereby a major money center bank would align itself with the principal manufacturers in our major export-oriented industries.

I can't imagine that a Ford Motor Co., or a Chrysler, which do business and have relationships with dozens and perhaps even hundreds of banks, would regard it as in their long-term interests to align themselves with a particular institution. I think they would regard that as a very short-sighted arrangement.

The Japanese and the British trading companies, which are the prototype, evolved as a result of historical circumstances which are not at all comparable to what we have in this country. Both of those nations are island nations. A very substantial, I guess major part, of their GNP is export earnings. They must export to survive and always have. And these vehicles grew up as a part of that economic system from day one.

We have in effect, proceeded beyond that stage, far beyond it. Most of our—I think the statistics indicate that less than 1 percent of our business firms account for 80 percent of our exports—major U.S. multinationals already have very substantial investments abroad. They are not going to be the companies which will, I think, be the principal users of these export trading companies. They are

already there and they are not going to come to the banks and try to arrange a zaibatsu alliance, I don't believe.

So I think there are three false premises in that editorial: cartels, gimmickry, and this zaibatsu reference.

Mr. WYLIE. You mentioned that this trading company bill before us is not necessarily a prototype of the Japanese trading companies or British trading companies. And then you talk about our participation in the export trade, and not trading companies but participation by banks generally.

U.S. banks have vigorously and relentlessly promoted trade finance, as you say in your statement. It would seem, then, that there is not a massive gap which is waiting to be filled by export trading companies.

Mr. HOWELL. Let me develop a point here that I think may be useful. There are two sides to this exercise. One is developing markets and transforming potential into actual demand abroad. The other side of it is, if I may use the expression, the supply side, which is encouraging and promoting the active involvement of the smaller U.S. manufacturer.

Now, on the overseas side, I think that those American banks with long experience abroad have the resources to identify the market opportunities, and indeed, to implement or follow through on those opportunities. I think, in other words, that need is probably capable of and is already being fulfilled to a great extent.

What we really need, and I think where this legislation is going to be useful, is domestically. And it may well be, as I said in my statement, that it will not be the major money center banks that will make the principal contribution, because, owing to our dual banking system and our nationwide branching restrictions, the big city banks don't really have the extent of direct access to the smaller manufacturer that the regional and local banks do.

So I think to a great extent maybe those smaller banks could make the real contribution as envisaged by the legislation.

Mr. WYLIE. Well, I'm inclined to think that the legislation may be useful. But I hope that while we are discussing this and perhaps even passing it, that it won't distract us from the much more serious task of addressing fundamental changes in our economic and export policy, which has resulted in the decline in the U.S. performance in the world markets.

Do you think that is a fair bottom line?

Mr. HOWELL. I think everybody would agree with that, that we are not talking about an either/or situation.

Mr. WYLIE. Thank you very much.

Chairman ST GERMAIN. Mr. Ashley?

Mr. ASHLEY. No questions at this time, Mr. Chairman.

Chairman ST GERMAIN. Mr. Leach?

Mr. LEACH. Thank you, Mr. Chairman.

Mr. Heller, you concluded with the question why should we prohibit financial institutions from involvement in export trading companies. Frankly, I think the more profound question is why should we sanction them, because the burden of proof is on you in the sense that you are advocating a change in the law. It strikes me that this legislation probably represents the greatest philosophical departure in banking law since I have been participating

on this subcommittee and probably at any time in the last several decades.

What we're considering in large measure is dramatically changing the historical demarcation between banking and commerce. I would like to ask what protections you think a corporate enterprise would have if a banker went to that enterprise and said: Join our export trading company. I stress this because it seems to me what we have at stake is that for almost no investment banks can develop enormous leverage in the free enterprise part of our economy and in foreign environments through buying what in effect will be a franchise over the sale abroad of something a domestic company produces.

Let me give you an example. I am a widget-maker and have a good domestic business and maybe 5 to 10 percent of my sales are abroad. I go to my banker wanting a loan for some purpose and my banker says, why don't you join our export trading company? So I do either through an already established one or setting up a new one capitalized for a minimum amount. Suddenly that bank has an asset in my sales abroad, which can be very valuable and I as a widget-maker must wrestle with the problems not knowing for sure the bank can provide me much help.

But I do know that the bank has enormous leverage over my decision whether to go forth or not, because that bank is going to be making loan decisions concerning my domestic operations as well as my foreign. So what I would be doing is giving up, for a very meager sum of money, a franchise over my overseas sales. I would also be intertwining myself significantly with that bank in my ongoing operations.

The profound question is why do we want to give banking institutions that much more authority over domestic as well as foreign sales through intertwining a domestic enterprise with a commercial bank. What protection do I as a widget-maker have, if I say, no, I don't want to join an export trading company, that I will not be penalized on interest rates? And not simply regarding overseas sales, but domestic as well.

Even more so, what protections are there on confidentiality? Let us say I am a widget-maker and refuse to join and my widget-maker competitor agrees. Banks know a lot about my market and they will be confronted with this serious conflict of not passing on important market information to the company with which they are more involved. It strikes me that what we may create here is the potential for a series of lawsuits by placing banks in an indefensible position of having financial conflicts.

Would you care to comment? Does that make sense to you or strike you as irrelevant?

Mr. HELLER. I appreciate your concerns. First of all, I think companies that are already exporting right now are really not very likely to join these export trading companies, because they have an ongoing export—

Mr. LEACH. Let me interject. That is an assumption open to serious question. Even a large American corporation, especially one with a small percentage of sales abroad, may find itself susceptible to pressure from an institution as large as Bank of America. When loans are rolled over, even large American companies might prove

unable to withstand not so subtle indications from their bankers that good relations are dependent on giving up an equity position in the companies' overseas operations.

Banking institutions could have substantial leverage even over the largest American enterprises. Doesn't that seem like a possibility to you?

Mr. HELLER. Well, I think from our vantage point, I think we are very much impressed by the competition among banks. If we don't make a loan, then Citibank will be very happy to make that loan and do that financing.

So the individual manufacturer has the choice among a wide variety of banks, and that should assure that any undue pressures of the sort that you are describing would probably never be exercised by the banks. At the present time the experience of the export trading companies that are in existence now is precisely the reverse; namely, that as they start out, they start selling for a manufacturer. And as soon as a reasonable market size has been established abroad, the manufacturer will go it alone. And therefore, all the market development efforts that the export trading company may have put forth, may result in very little payoff for the export trading company.

So the manufacturer has always the option to disassociate himself from the export trading company and directly go into the foreign markets. I really believe that, given the competitive climate in the world right now, there is very little chance that any bank, even the very large ones, could be exercising the kind of monopoly power that you are talking about.

Mr. ANNUNZIO [presiding]. The gentleman's time has expired. Mr. Barnard?

Mr. BARNARD. Thank you, Mr. Chairman.

Gentlemen, do you see any relationship in this activity to the activity of the REIT's in which the banks participated and had such an interesting experience? Mr. Howell?

Mr. HOWELL. Apart from what I understand are the safeguards in the legislation—fortunately, Citibank escaped to a great extent a direct involvement in that kind of a situation—let me simply say at this point, I do not foresee the likelihood of that kind of scenario developing, in large measure as a result of the safeguards.

What we are talking about really—and I wouldn't deny the issue—is that banks will become identified with a trading company and therefore feel obliged to support it. And I would acknowledge that this is certainly going to be one of the considerations which will moderate the enthusiasm of many banks for investing in these trading companies.

But again, it takes us back to the issue of whether the bank feels it has the capability to manage the company and to protect its interests. And that is going to be a function, I think, of how these ownership provisions come out, and the particular strategic objectives of each bank.

Mr. BARNARD. Mr. Heller, do you have an opinion on that? Mr. HELLER. I very much agree with Mr. Howell.

Mr. BARNARD. Acknowledging the extensive activity in this country of Japanese trading companies, which both of you indicated in

your testimony, what is the relationship between Japanese banks and these trading companies? Mr. Heller?

Mr. HELLER. I am no expert in the Japanese area, but I believe that banks are actively involved with the trading companies and closely associated.

Mr. BARNARD. In an ownership capacity?

Mr. HELLER. I believe that is true.

Mr. BARNARD. Mr. Howell, do you know?

Mr. HOWELL. Very close.

Mr. BARNARD. Well, how does that compare to what is the essence of this bill?

Mr. HOWELL. Well, in structural terms I suppose it could be comparable, but as I say, in terms of the plausibility of the scenario of a major money center bank alining itself with a major manufacturer or a group of major manufacturers, in our market system, no way, in my judgment.

Mr. BARNARD. Gentlemen, would export trading companies be attractive to nonfinancial institutions?

Mr. HOWELL. Well, again, I believe that we hope that they will. The object of the exercise is to attract 25,000-odd manufacturers who, for whatever reasons, feel they don't have the resources, the capability, to enter into export trade. If we can package these resources and make them readily available, I think that would certainly assist in encouraging many of these companies, some of these companies, to make that big step.

So the answer is "Yes".

Mr. BARNARD. Mr. Heller?

Mr. HELLER. Of course, after all, there are already 600 to 1,000 companies, export trading companies operating in this country right now. And I would fully expect that they would continue in that particular business.

Mr. BARNARD. All right. But what about some of the money market mutual accounts, the Merrill Lynches, and the security industry? Why wouldn't they get into the export trading business? Or would they?

Does this bill limit them from getting into the business?

Mr. HELLER. I don't believe so.

Mr. BARNARD. Well, why wouldn't they be interested in getting in it? They are into everything else.

Mr. HELLER. That is right.

Mr. HOWELL. I think, if I may say so, there is no reason to think they wouldn't. I agree with you, there is no reason to think they wouldn't be interested in it.

Mr. BARNARD. Well, this is an aspect of the legislation that intrigues me. While we are limiting the activity of the banks percentage-wise, there are big question marks whether the banks ought to be even permitted to get into it. But, there are others in the field of commerce who are just as active in activities like this, and there has been no mention as to whether or not they ought to be involved.

I just wonder if Citicorp and Bank of America would have an opinion on that. Aren't they your competitors?

Mr. HOWELL. They are indeed, and I think we would certainly—I would respond to your initiative in bringing up that subject, that in

terms of the competitive equity or competitive equality question, we certainly would feel that banks should have the opportunity to compete on more equitable terms with different kinds of financial institutions and nonfinancial institutions.

But more to the point is, who is going to bring the resources to the party, I think.

Mr. BARNARD. Export trading companies, Mr. Heller, as you know them today, do they actually go into the area of manufacturing and distribution other than just the exporting business? Are they in the manufacturing business as well?

Mr. HELLER. Well, clearly there are companies that do both the trading and the manufacturing. Typically, they would not be referred to as export trading companies. They would be just domestic manufacturers that would be heavily involved in export trade.

Many of our very large enterprises clearly do have extensive foreign trade involvement, and they use that particular vehicle, if I understood your question right.

Mr. HOWELL. May I comment? I think that again is an opportunity to demonstrate the difference between our system and, for example, the Japanese or the British systems. Caterpillar, for example, is not characterized as a trading company in our market, but certainly they are very heavily involved in marketing their heavy equipment products overseas, and might well have developed, in a Japanese environment, as a trading company, rather than simply a manufacturing company.

Mr. BARNARD. Let me just ask one quick question here. My time is nearly expired.

Inasmuch as export trading companies would be operating across State lines, what is the implication here on the McFadden Act?

Mr. HOWELL. That is a good question. I think I would want to contemplate that for a minute.

Mr. BARNARD. Well, I mentioned it because we are considering a lot of things. The esteemed and distinguished chairman of our subcommittee brought to the attention of us this morning that there has been a separation of banking and commerce over the years, and, of course, this proposal with have to have an impact as far as regional banking and so forth.

So if we're going to address one subject, let us maybe get into it all.

Mr. HOWELL. I think probably the simple answer is that obviously this bill limits the activities of trading companies to export promotion and international activities.

Mr. BARNARD. But you couldn't limit it to the degree that there would still be financing going on, financing of inventory?

Mr. HOWELL. Are we talking about something that is significantly different from what the Edge Act now provides?

Mr. BARNARD. I don't think so, but it's interesting to know that we are broadening the area of service to the degree that McFadden and even Douglas may have lost its meaning.

Mr. Heller, do you have a comment on that?

Mr. HELLER. I think the comparison to the Edge Act activities is entirely appropriate. Edge Acts are allowed to operate in various States. They are concerned directly with international trade fi-

nancing. And the export trading companies here would be very much in the same vein.

Mr. BARNARD. In the area of correspondent bank relationships with money center banks, what relationship can you see that would develop here, so that we might have a scenario that would have application to smaller banks? How do you see that operating under this bill?

Mr. HOWELL. As I have stated, I think that is a very likely scenario, at least within the context of the degree to which the legislation is likely to be efficacious in general.

But if what we are talking about is interesting smaller banks in promoting and encouraging their clients, who in turn presumably will include smaller, medium-size, middle market type companies, those banks may very well rely to a great extent on correspondent banks overseas. And I think there would be linkages established in that fashion with the critical intermediary, perhaps, being the smaller local or regional bank intermediating between the manufacturing prospective exporter in the United States on the one hand and the correspondent bank overseas—which would provide the foreign market knowhow and the operational resources abroad.

Mr. BARNARD. Can you foresee two or three small banks investing in one export trading company?

Mr. HOWELL. Yes, indeed.

Mr. BARNARD. To approach the exports on a local community basis, in other words?

Mr. HOWELL. I would think the likelihood that banks would get together in a trading company would be greater outside of the principal money market centers.

Mr. HELLER. That is true. Also, small banks may want to team up with a large bank, each bringing its own unique resources to the endeavor, where the small bank knows the manufacturers; the larger bank, the internationally oriented bank, may know more about foreign markets, and the international business aspects.

So you would get a very fruitful partnership in that way.

Mr. BARNARD. Thank you, Mr. Chairman.

Mr. ANNUNZIO. Thank you, Mr. Barnard. Mr. Wylie?

Mr. WYLIE. Thank you, Mr. Chairman.

Mr. HOWELL, are you familiar with the position of the Federal Reserve Board vis-a-vis the Stevenson bill?

Mr. HOWELL. I believe I am.

Mr. WYLIE. And the amendment on voting stock ownership.

Mr. HOWELL. Yes.

Mr. WYLIE. Do you support that amendment, which has now been, I think, signed off on by the Fed and by the Treasury?

Mr. HOWELL. I think there are trade-offs there. It is a difficult issue, but I think what we are talking about is balancing the prudential considerations with the prospect that the bill will be effective and achieve its desired purpose.

In that regard, I think we would prefer that the bill stand as originally proposed, rather than include the Federal Reserve amendment simply because we feel that if the bill is to be effective, banks are going to have to have the opportunity to manage their stake.

Mr. WYLIE. Given the position in which we now find ourselves, is it fair to say, however, that you would rather have the Stevenson bill with the Federal Reserve amendment than have no bill at all?

Mr. HOWELL. I think that is fair to say.

Mr. WYLIE. Is that fair to say for you, Mr. Heller?

Mr. HELLER. Yes.

Mr. WYLIE. On page 8, Mr. Howell, you say:

I need not reiterate here our need to manage the far more fundamental challenges of inflation, dwindling savings and investments, and declining productivity, which are the ultimate causes of our export problems.

And I don't think I need to reiterate those challenges, with which I might say I agree. But could you tell the subcommittee what specific legislation you believe, you personally believe, is necessary to meet these challenges.

Mr. HOWELL. I would prefer to duck that one, if I may, Mr. Congressman, at this point. I think that is one that we can certainly expand on for the record.

Mr. WYLIE. If you would want to expand on that for the record, that would be fine.

[At the time the hearing went to press, no information was received from Mr. Howell.]

Mr. WYLIE. Mr. Heller, do you want to respond, or would you like to respond for the record?

Mr. HELLER. I would be glad to do both. I think one very important thing is, especially for the smaller manufacturers in the United States, to eliminate to the extent possible Government rules and regulations that are imposed on the foreign trade sector to achieve foreign policy goals. To be in conformance with all of these regulations is exceedingly difficult for a small manufacturer, and especially somebody who is venturing into the area for the first time.

I happened to read the Federal Register of September 4 of this year, and the amount of controls that you have is truly bewildering.

For example, there are foreign policy controls covering international terrorism, regional stability, South Africa, Namibia, human rights, embargoes, Communist countries, oil and gas equipment for the U.S.S.R., agricultural products, phosphates, the summer Olympics, the truck assembly lines for the Soviet Kama River truck factory—and it goes on.

To be in conformance with all of these different regulations really makes it very difficult for a small manufacturer to get into the business and to have some confidence that he can stay there without running afoul of regulations.

[At the time the hearing went to press, no supplemental information was received from Mr. Heller.]

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

Mr. ANNUNZIO. Thank you, Mr. Wylie. Mr. Leach.

Mr. LEACH. Thank you, Mr. Chairman. Mr. Heller, it strikes me that what we have here is a bill that is designed for politically attractive purposes, but has profound economic ramifications in breaking down the historical barrier between banking and commerce, and in opening a Pandora's box of antitrust problems. It

also seems that the subcommittee is being asked to make some very naive assumptions.

One assumption is that banks don't have leverage; that there is so much competition in banking that if a banker asks an enterprise to consider forming a trading company it will be a penalty-less decision on the part of the company whether to participate.

Second, that a trading company, once formed, is easy to dissolve. I have been in business and have never known a corporation that was easily dissolved. There is nothing more difficult than to dissolve a relationship once established.

Third, that there will be no conflicts; that banks, in essence, will not have a conflict with their clients, even though with one they may have a trading company and with another they may not.

And fourth, that the competitive position of small banks versus big banks, will not be jeopardized. I find that very difficult to believe. This bill not only has problems in a philosophical sense, but also could well become a wedge by which big banks can get more involved outside their present market areas.

Simply put, a bank in my State of Iowa will have a very difficult time establishing an ETC. As a corporate customer of a small bank gets involved with a big bank, that big bank is more likely to take that account away from the small bank and this will be another step toward nationwide banking.

Would you care to comment on these four assumptions? Do you think that I am off base?

Mr. HELLER. First of all, the leverage over the enterprise question, I believe, if you would have a 100-percent-owned bank subsidiary, so that there would not be a joint company, then that question would never arise. Therefore I think it is important to allow 100-percent-bank-owned companies; then the manufacturer is able to deal with the trading company, whether he wants it or not; there is no tie-in of the variety that—

Mr. LEACH. I think that is a naive assumption. Don't you? If you go to a banker and he says, "By the way, we have a trading company. You may join it or not. It is your decision."

Mr. HELLER. Well, like I said before, I think there are many banks that are competing for the business of the different manufacturers in the country. And from that standpoint, he can always—if he does not like the relationship with the bank, he always has the option to go somewhere else. I really don't see the great concern that would emanate from that particular aspect of the bill.

Beyond that, let us not forget that the trading company offers really a new market to the producer. He has the option of entering that new market, or he can say, "Well, I will stay with my domestic customers exclusively." Actually, that is one of the main advantages of the bill, in that it would permit a domestic operation in the United States that the manufacturer could deal with directly on the spot, and thereby obviating the need for all his own foreign involvement.

Mr. LEACH. I don't want to pursue this too far, because the chairman does have time constraints. However, it strikes me that what will happen is that corporations will be asked to form what in effect is a DISC-type operation, with almost no capital.

Let us say a company might be worth \$100 million, and it forms a DISC of \$100,000, in which a bank puts in \$25,000. And suddenly, for \$25,000, the bank has a percentage of that corporation's franchise in overseas sales. That is a very cheap investment for a bank, especially considering the enormous leverage acquired. The bank ends up in a potentially nefarious relationship with that company in their domestic operations as well as their overseas sales, because suddenly they are commercial partners.

And that implies a change in the banking and commercial relations of the profoundest nature, even though at first glance it seems very trivial.

Thank you for allowing this additional time, Mr. Chairman.

Mr. HELLER. Might I add one sentence on that? I think the really important aspect here is whether we want to shackle American industry and the financial institutions so that we will not be able to compete in world markets? I think your overall goal is really the important thing to pursue, and if it is to open up foreign markets to American enterprise, I still believe this legislation is the right vehicle.

Mr. LEACH. Thank you.

Mr. ANNUNZIO. All time has expired. I want to, on behalf of the subcommittee, express my profoundest thanks to Peter Howell, vice president, international relations unit of Citibank; and H. Robert Heller, vice president for international economics of the Bank of America, for your appearance today, and for your contribution toward creating a better understanding of this legislation with the subcommittee.

I thank you very much for your appearance.

Our next witness will be the Honorable Abraham Katz, Assistant Secretary for International Economic Policy, the U.S. Department of Commerce.

Mr. Katz, you have a prepared statement. You can either read your statement or summarize it. If you choose to summarize it, I am going to make a request that without objection your entire statement may be made part of the record.

STATEMENT OF HON. ABRAHAM KATZ, ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY, DEPARTMENT OF COMMERCE; ACCOMPANIED BY MARY CHAVES, ACTING DEPUTY DIRECTOR OF THE OFFICE OF INTERNATIONAL TRADE OF THE TREASURY DEPARTMENT, AND ANDREW E. MANATOS, ASSISTANT SECRETARY OF COMMERCE FOR CONGRESSIONAL AFFAIRS

Mr. KATZ. Mr. Chairman, thank you very much. I would appreciate it if you would make the prepared statement part of the record, and I will summarize it.

Mr. ANNUNZIO. That has already been done. Your prepared statement is part of the record.

[The referred-to prepared statement is the statement of Secretary Klutznick and may be found on p. 38.]

Mr. KATZ. Mr. Chairman, let me first introduce to my left Mary Chaves, who is Acting Deputy Director of the Office of International Trade of the Treasury Department. As you know, we have been working very closely with the other executive branch agencies,

especially the Treasury, on this legislation and particularly on the banking provisions of this legislation. To my right is Assistant Secretary Andrew E. Manatos, Assistant Secretary of Commerce for Congressional Affairs. And if I may, I will call on them as necessary to field some of your questions.

Mr. ANNUNZIO. Without objection.

Mr. KATZ. Mr. Chairman, the testimony you have before you is testimony prepared for Secretary Klutznick, who is now at the White House engaged in the announcement of our steel program, and he told me he would do his best to get here before your morning session is over, so he may come in at any moment and take over the testimony.

Let me first say that I appreciate the opportunity to appear before the subcommittee this morning to present the administration's views on legislation to authorize the formation and operation of export trading companies. S. 2718, H.R. 7436, and similar bills introduced by House Members seek to encourage exports of goods and services by American industries by promoting the formation of export trading companies.

The administration strongly supports the purpose of these bills. The administration endorses the concept of export trading companies and changes in the Webb-Pomerene Act to clarify the application of the antitrust laws to export trade activities. Competition among trading countries for increased market shares was never fiercer than it is today, and the eighties will require the United States to use every resource to keep pace with our competitors. An increase in exports is of utmost importance to the Nation's economic well-being. This legislation will provide an effective incentive and means for increasing our exports.

First, let me digress for a moment in response to a very important point made by Mr. Wylie. This is not the only instrument that the administration is proposing in connection with our drive for exports. Mr. Wylie is absolutely correct. We need an overall national export policy.

We have the beginning of one with the President's statement in September 1978, and more recently the statement that he prepared and submitted to Congress in response to section 1110(a) of the Trade Agreements Act. The full President's report submitted to the Congress our rather exhaustive survey of potential export incentives and disincentives in trade.

As you may recall from the President's message, he outlined three concrete steps that he will be taking to followup on the material in that report, but he stated that one of the most important things that the Congress could do in this session is to pass the export trading company legislation because this legislation is an important piece in the overall export policy. And I will concentrate on explaining the nature of this piece of the overall policy.

Mr. Chairman, in crafting the export trading company legislation, we started with a fundamental fact, and that is the almost astounding concentration of export performance in a very small number of U.S. firms. The statistics are remarkable—5 of the largest exporters in the United States account for 17 percent of total U.S. exports; 25 of the largest exporters account for 35 percent of total U.S. exports; 120 of the largest exporters account for

53 percent of total U.S. exports; and 850 of the largest exporters account for over 70 percent of total U.S. exports.

Mr. Chairman, those numbers underlie the purpose of this legislation.

Mr. ANNUNZIO. Mr. Katz, if you would hold, the Chair would like to welcome the Secretary of Commerce, my good friend from the city of Chicago, the Honorable Philip M. Klutznick. We are delighted that you found time to be with us this morning.

Secretary Klutznick?

STATEMENT OF HON. PHILIP M. KLUTZNICK, SECRETARY OF
COMMERCE OF THE UNITED STATES

Secretary KLUTZNICK. Thank you, Mr. Chairman.

Mr. ANNUNZIO. Mr. Katz, why don't you proceed?

Mr. KATZ. Mr. Secretary, I was summarizing the testimony we have submitted for the record, and I was just stating the basic fact underlying the purpose of this legislation, which is to bring more American firms, more small- and medium-sized American firms, into the export picture.

We feel that the export trading company is the vehicle for bringing this enormous resource into exports. Export trading company legislation would significantly increase the attractiveness of export marketing to thousands of small- and medium-sized firms. These firms are among our most innovative and venturesome and produce far more than their proportionate share of the Nation's new jobs.

In recent years, small companies have provided almost 9 of each 10 new jobs in the United States. How are the U.S. export trading companies—and I emphasize that these will be U.S. export trading companies since they will not really be patterned on the trading companies of Japan or of any other country—how will they accomplish this critical purpose?

There are three characteristics of the new U.S. export trading company. First, it must provide a one-stop facility for firms of any size interested in exporting. It must provide market analysis, distribution services, documentation, transportation arrangements, financing, and after-sale services abroad.

Second, a successful export trading company will seek out U.S. products for which it has discovered markets overseas. It will not stand by passively awaiting overtures from U.S. companies interested in exporting their products. There is an important element of entrepreneurship in the export trading company.

Third and finally, the export trading company should limit the capital outlay and risk that any individual company would have to assume to begin exporting. The exporting company must be sufficiently capitalized to allow operations on a scale that would achieve the economies mentioned earlier.

Mr. Chairman, the testimony that has been submitted for the record describes the principal features of the legislation. Let me concentrate on the field of your interest and expertise—the question of bank equity participation.

Because of their expertise and financial resources, banks can play an important role in the successful development of export trading companies. The administration believes that the banking

provisions of S. 2718, approved by the Senate, adequately meet the concerns of safety and soundness for our financial system while permitting a leading role for bank participation in export trading companies.

Let me just recall some of the provisions. S. 2718 permits a banking organization to make aggregate investments up to 5 percent of its capital and surplus in export trading companies. Regulatory approval would be required for, first, aggregate investments in one or more export trading companies of more than \$10 million; second, investments that cause the export trading company to become a subsidiary of the investing bank organization.

Earlier in the discussion of the panel, there was a question of the limitation on ownership. As I understand it, Mr. Chairman, the term subsidiary signifies 25-percent ownership according to the existing statutes, so that investments by any single bank organization would be limited to 25-percent ownership of the export trading company.

Third, regulatory approval would also be required for investments that would cause more than half the voting stock of any export company to be owned or controlled by—and there is an important omission—by a group of banking organizations. Aggregate bank investments and credit extensions to export trading companies would be limited to 10 percent of a banking organization's capital and surplus.

The provisions address specific regulatory concerns over parent bank exposure to trading company operations, potential commodity speculation, and the need to avoid preferential credit extensions. Export trading companies with noncontrolling bank investments could take title to goods and hold inventory with the exception of positions taken in commodities other than as may be necessary in the course of normal trading relations.

A banking organization must give the appropriate Federal banking agency 90 days prior notice if it makes an additional investment in an export trading company or if the export trading company engages in activities such as taking title to goods or commodities if such activity was not previously disclosed.

Limitations apply to export trading companies which prevent use of a name similar to that of a bank that owns any of its voting stock. The banking agencies may not approve any application by a bank to invest more than \$10 million in ETC's or acquire more than 50 percent of the voting stock of the ETC, if the export benefits of such proposals are outweighed by any adverse financial, managerial, competitive, or other banking factors associated with the particular investment.

We support the sound general principle of separation of banking and commerce, Mr. Chairman, but we believe there is good, and indeed, compelling reason to make an exception on a controlled basis for limited and conditional bank ownership of export trading companies in order to strengthen the U.S. capacity to meet the strong international competition we are facing.

Moreover, we further believe that as drafted, the legislation contains prohibitions, restrictions, limitations, conditions, and requirements which are more than ample to meet each of the concerns raised concerning bank ownership of export trading companies.

Mr. Chairman, I have summarized the important parts of our testimony. The time has come to enact legislation to allow successful export trading companies, while not undermining principles underlying the banking and other regulatory laws. The banking provision should reflect an appropriate accommodation of the export trade interests to be promoted by the legislation with important safeguards.

We believe bank ownership, carefully limited and controlled, is essential if our export trading companies are to flourish. Thank you, Mr. Chairman.

[Secretary Klutznick's prepared statement referred to by Mr. Katz on p. 33 follows:]

Statement of Philip M. Klutznick
Secretary of Commerce
before the
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
of the
Committee on Banking, Finance and Urban Affairs
of the
U.S. House of Representatives
September 30, 1980

I appreciate the opportunity to appear this morning before the Subcommittee to present the Administration's views on legislation to authorize the formation and operation of export trading companies. S. 2718, H.R. 7436 and similar bills introduced by House members seek to encourage exports of goods and services by American industries by promoting the formation of export trading companies.

The Administration strongly supports the purpose of these bills. The Administration endorses the concept of export trading companies and changes in the Webb-Pomerene Act to clarify the application of the antitrust laws to export trade activities. Competition among trading countries for increased market shares was never fiercer than it is today, and the 1980's will require the United States to use

every resource to keep pace with our competitors. An increase in exports is of utmost importance to the Nation's economic well-being, and this legislation will provide an effective incentive and means for increasing our exports.

As you know, the Senate passed S. 2718 unanimously on September 3. If there is prompt action by the House, we can have this valuable export aid this year.

The Role of Exports in a Strong U.S. Economy

Improving the export performance of the United States is, as the President stated in his Report to Congress in September on Export Promotion Functions and Potential Export Disincentives, "a high priority objective" of Administration policy. Exports are essential to the strength of the U.S. economy, and contribute significantly to U.S. jobs, production and economic growth. Exports enable important economies of scale, thereby contributing to the most efficient use of U.S. resources. Exports provide the most constructive way of paying for U.S. imports of petroleum and other essential commodities, and thus keep the dollar firm.

Enormous as our oil bill is, we could be paying for imported oil without running a balance of trade deficit if we had maintained the share of world exports in manufactured goods that we enjoyed in 1960. The U.S. share of world markets for manufactures was 17.4 percent in 1979, an improvement over 1978, but still below the 1970 share of 18.4 percent and 1960 share of 22.8 percent.

Exports of goods presently account for about 7.5 percent of our gross national product, the lowest percentage of any industrialized nation. Compare this figure with that of France -- 16. percent, Germany -- 22.6 percent, Italy -- 22.3 percent, the Netherlands -- 38.3 percent, Canada -- 25.1 percent, or the United Kingdom -- 23.1 percent. Even Japan, with its large domestic economy and negligible agricultural exports, ships abroad 10.2 percent of its GNP. Of course, our economy has been and is quite different from the economies of these countries. Yet if U.S. exports of goods and services were to increase by only one percentage point of our gross national product, that would represent nearly \$3 billion. This amount represents a significant portion of our merchandise trade deficit.

Export trading company legislation would significantly increase the attractiveness of export marketing to thousands of small and medium-size firms. These firms are among our most innovative and venturesome and produce far more than their proportionate share of the Nation's new jobs -- in recent years small companies have provided almost nine of each ten new jobs in the United States.

The successful conclusion of the Multilateral Trade Negotiations brings outstanding new opportunities for U.S. exports through the reduction of foreign barriers. Average tariffs will fall by about 30 percent over the coming six years, and roughly \$35 billion in government purchasing here and in other countries will be opened up to international competition. The Export Trading Company

legislation would put thousands of small and medium-size companies into a position to take advantage of these new opportunities for profitable business in foreign markets. Let me now discuss how export trading companies can help us towards this export growth.

The Role of Export Trading Companies

Favored with a large and growing domestic market, most small and medium-sized companies have little incentive to export. They also frequently lack know-how, management time, and financial resources.

We do not have precise figures on the makeup of the U.S. exporting community. It is significant that a small number of U.S. firms account for a very large portion of U.S. exports. As much as 50 percent of our manufactured exports are accounted for by only 100 companies, and only 10 percent of the nearly 300 thousand manufacturing firms in the United States are exporters. Thousands more produce goods that could be exported, but are not. Clearly one of the best ways for these non-exporting American companies to get into foreign marketing is to work through a firm that will take a quality product manufactured by that company and itself do the exporting. We should learn from the experience of many of our most successful trading partners, including West Germany, Japan, France, and Hong Kong. All use some form of sophisticated export trading entity to represent manufacturers abroad.

Aside from the major international grain companies, and a few firms that are either foreign owned or are subsidiaries of large multinational companies, we do not have large export trading entities. To be sure, there are some 700-800 export management companies in the U.S., many of them well-managed and successful businesses, and another 3,000 or so small export merchants. Not all of these export companies are adequately financed or managed, however, and cannot provide the full range of export services required by the novice exporter. We also have about thirty Webb-Pomerene export associations, handling U.S. exports ranging from movie and TV films to textile machinery.

I believe there are three characteristics that are essential for a successful U.S. export trading company. First, it must provide a "one stop" facility for firms of any size interested in exporting. It must provide market analysis, distribution services, documentation, transportation arrangements, financing, and after-sale services abroad. In performing these services, the export trading company will develop a thorough knowledge of the laws and customs of the foreign markets in which it sells. As exporting specialists, of course, these companies will achieve economies of scale beyond those an individual company could hope to achieve.

Second, a successful export trading company will seek out U.S. products for which it has discovered markets overseas. It will not stand by passively, awaiting overtures from U.S. companies interested in exporting their products.

Third, the export trading company should limit the capital outlay and risk that any individual company would have to assume to begin exporting. The exporting company must be sufficiently capitalized to allow operations on a scale that would achieve the economies mentioned earlier. Export trading companies with these characteristics are most likely to be formed by entities that already operate in international markets and that have sufficient capital available. A manufacturer that is already exporting its own products has a ready-made overseas network to sell products of smaller U.S. companies that will not export on their own. Similarly, many banks have national and foreign coverage through branches, agents, or correspondent banks. These banks are already in the business of evaluating risks, researching foreign markets, and providing financing. Banks also have existing relationships with many domestic manufacturing companies. They are logical candidates to form and participate in export trading companies. No matter what the origins or ownership of the export trading company, its aim will remain the same -- to export products of U.S. companies that do not now export in significant quantities.

The Need for Legislation

If export trading companies have this potential, why has the private sector not already seized the opportunity, formed them, and equipped them with know-how and financial backing? The answer may lie largely in the inhibiting effect of some of our regulatory mechanisms. With the exception of bank holding companies, which can purchase up to five percent of the shares of any U.S. company, our banking laws and regulations do not allow bank investments in export trading companies. On the other hand, foreign banks are either sponsors of, or closely identified with, many of the successful export trading companies in other countries. There is also uncertainty in some segments of the business community over application of the antitrust laws to export activities associated with their domestic competitors.

The time has come to enact legislation removing the inhibiting effect of these regulatory systems. We need legislation that provides flexibility in the regulatory mechanism to allow successful export trading companies, while not undermining principles underlying the banking and antitrust laws. The banking provisions should reflect an appropriate accommodation of the export trade interests to be promoted by the legislation, with important safeguards. We believe bank ownership, carefully limited and controlled, is essential if our ETCs are to flourish.

Let me now address briefly the major provisions of the export trading company legislation.

1. Bank-Equity Participation

Because of their expertise and financial resources, banks can play an important role in the successful development of export trading companies. The Administration believes that the banking provisions of S. 2718 as approved by the Senate adequately meet the concerns of safety and soundness for our financial system while permitting a leading role for bank participation in export trading companies.

S. 2718 permits a banking organization to make aggregate investments up to 5 percent of its capital and surplus in export trading companies. Regulatory approval would be required for (1) aggregate investments in one or more export trading companies of more than \$10 million, (2) investments that cause the export trading company to become a subsidiary of the investing bank organization, or (3) investments that would cause more than half the voting stock of any export company to be owned or controlled by banking organizations. Aggregate bank investment and credit extensions to export trading companies would be limited to 10 percent of a banking organization's capital and surplus. The provisions address specific regulatory concerns over parent bank exposure to trading company operations, potential commodity speculation and the need to avoid preferential credit extensions.

Export trading companies with non-controlling bank investments could take title to goods and hold inventory, with the exception of positions taken in commodities other than as may be necessary in the course of normal trading relations.

A banking organization must give the appropriate Federal banking agency 90 days prior written notice if it makes an additional investment in an export trading company or if the ETC engages in activity, such as taking title to goods or commodities, if such activity was not previously disclosed.

Limitations apply to ETCs which prevent use of a name similar to that of a bank that owns any of its voting stock. The banking agencies may not approve any application by a bank to invest more than \$10,000,000 in ETCs or acquire more than 50 percent of the voting stock of the ETC if the export benefits of such proposal are outweighed by any adverse financial, managerial, competitive, or other banking factors associated with the particular investment.

We support the sound general principle of separation of banking and commerce, but we believe there is good, and indeed compelling, reason to make an exception of a controlled basis for limited and conditional bank ownership of export trading companies in order to strengthen U.S. capacity to meet the

strong international competition we are facing. Moreover, we further believe that, as drafted, the legislation contains prohibitions, restrictions, limitations, conditions and requirements more than ample to meet each of the concerns raised concerning bank ownership of export trading companies.

2. Financial Provisions

S. 2718 recognizes the need of many small and medium size businesses and agricultural concerns for financial help in launching a new export venture. The export trading company may need support with initial investment and operating expenses in getting under way. The Administration approves using existing authorities such as those provided by the Economic Development Administration and Small Business Administration to help export trading companies meet start-up costs.

The Administration does not object to authorizing the Export Import Bank to guarantee commercial loans to export trading companies secured by inventories of exportable goods or export accounts receivable. As provided in section 107 of S.2718, this authority is conditioned on a finding in each case by the Eximbank's Board of Directors that the private credit market is not providing adequate financing and that the guarantees would facilitate exports which would not otherwise occur.

3. Antitrust

The Administration remains committed, with only a few changes discussed with the Judiciary Committee and set forth in Assistant Attorney General Sanford M. Litvack's letter to Chairman Peter W. Rodino, Jr. of September 23, 1980, to the standards and procedures for an antitrust exemption contained in Title II of H.R. 7436 and S. 2718. This approach is the result of careful and prolonged consultation within the Administration and between the Administration and Congress. It strikes a careful balance between the need to provide businessmen with the certainty that their export trade activities will not lead to antitrust liability and the need to prevent anti-competitive developments within the United States.

Once certification is granted, the certified entity would be exempted from antitrust liability for the activities described in the certification. The immunity would only extend to activities covered in the certification. The Department of Commerce could revoke the certification if the entity's activities ceased to conform to the statutory standards. The Attorney General and the Federal Trade Commission would be empowered to seek decertification in court on their own initiative.

4. Tax Provisions

The Administration remains firmly opposed to the modifications of the DISC and the Subchapter S provisions of the Internal Revenue Code proposed in H.R. 7436 and some of the other export trading company bills before the Subcommittee. Most export trading companies should be able to meet the requirements of present DISC legislation. Thus, the creation of export trading companies will effectively expand DISC coverage without changing the statute itself. However, extending DISC benefits to "services produced in the United States" and to "export trade services" would be costly. The revenue cost of the bill cannot be precisely estimated, in part because the proposed language is general and open-ended. We are convinced, though, that the additional cost could run into the hundreds of millions of dollars.

Present budgetary restrictions simply do not permit a revenue loss of that proportion at this time. Even if Federal budgetary conditions were less stringent, we would have serious doubts about the scope of the proposed amendments. Many of our large service firms already have substantial international operations. These firms could incorporate ETCs simply to qualify existing operations for DISC benefits. The result would

be a substantial revenue loss without any demonstration that exports would be appreciably increased.

Finally, we note that under the recently negotiated International Subsidies Code, the United States was able to secure at least a temporary "grandfathering" of the present DISC program. Substantially enlarging the legal scope of the DISC program would raise questions about U.S. observance of our international obligations.

With respect to the Subchapter S provisions, we support eliminating the present requirement that a qualifying corporation earn at least 20 percent of its income within the United States. We believe, however, that this and other reforms of Subchapter S should be part of a broader reform of Subchapter S. We call the Committee's attention to the report on Subchapter S reform recently issued by the Joint Committee on Taxation. We urge the taxwriting Committees to take up consideration of Subchapter S reforms as soon as is feasible. Because few export trading companies are likely to be owned by individuals, as Subchapter S requires, this provision is not a critical element of support for export trading companies.

All tax provisions in S. 2718 were eliminated when the bill passed the Senate. I urge this Subcommittee and the House to follow a similar course.

To sum up, with the changes in Title II to which I alluded, the Administration urges the adoption of the banking, financing, and antitrust provisions of H.R. 7436 and S. 2718. We also urge the deletion of the revenue provisions in H.R. 7436 and the other ETC bills. Removal of these differences will allow the Administration and Congress to work together toward passage of export trading company legislation in 1980.

Mr. ANNUNZIO. Thank you, Mr. Katz, for a very constructive statement.

Mr. Katz, we hear much about Japanese export trading companies and West German export trading companies. It seems to me that if we are going to continue to use these two countries as an example, we must explore the relationship of their export trading companies to their banks and to their central governments. Wouldn't you agree with that statement?

Mr. KATZ. Mr. Chairman, we did so in the Department of Commerce a number of years ago when we examined this institutional form for promoting exports. I must stress, however, that this legislation and our support for this legislation stems from the profound recognition that we cannot compromise our very basic values and traditions in doing business.

There are many different approaches in doing business around the world. In fact, legislation really is a reflection of the values of a society. No other country has the very, very strict antitrust approach that we do. Consequently, while we studied very carefully the Japanese and German models—and I might add, every major trading country does have some bank involvement in export trading companies—while we have studied these patterns, we tried to evolve a pattern that is reflective of our own approach of how to do business and especially of the basic principle of safeguarding our banks and establishing an appropriate demarcation between the banks and business.

Mr. ANNUNZIO. In the Wall Street Journal of September 5th, a copy of which has been made available to you, we now see that West Germany has begun considering the possibility of a Glass-Steagall approach, which basically separates banking from commerce on the ground that banking virtually dominates governmental decisions, therefore supporting the political process.

This appears to be the real danger in the approach advocated by the administration of permitting 100-percent equity ownership of export trading companies by commercial banks. I would like to have your comments on that statement.

Mr. KATZ. Well, Mr. Chairman, I never cease to be amazed by the inaccuracies that creep into editorials, although the news stories are generally accurate, in the economic press. I have read a series of restrictions and limitations that are contained in this legislation. I think these restrictions, conditions, and limitations are more than ample guarantees to insure that we will not even begin to approach the role of banks in the economy or commerce of the Federal Republic.

Mr. ANNUNZIO. Thank you, Mr. Katz.

Mr. Barnard?

Mr. BARNARD. Thank you, Mr. Chairman. I also want to take this opportunity to welcome the Secretary to the meeting today. We are glad to have you.

Mr. Katz, just to follow up on that last question, I don't think Germany has benefited from having 14,000 commercial banks as we do in this country. I think that that in itself would be some safeguard to that particular question.

I asked the gentlemen on the other panel about the expectation of the Department as far as the participation of other institutions, some that are identified as nonfinancial institutions? What participation do you see as far as brokerage firms and securities dealers and others who are in somewhat appropriate positions, as they finance through stock issues and bond issues American industry and manufacturing—what role do you see for them in this export trading company bill?

Mr. KATZ. Let me start the answer and be backed up by a man who has actually met a payroll and knows more about how these institutions operate.

The basic purpose of this legislation, sir and Mr. Chairman, is to get institutions into the act that have appropriate experience—experience both abroad and at home—institutions that have international networks.

After years in the Foreign Service, I can tell you that our principal competitor, that is, the principal competitor of the Foreign Service abroad, are the economic offices of the major banks. When a businessman goes abroad, to France or Brazil or any other country, and wants to find out how he can best sell his product, he very frequently finds that it is the bank, the National City office or the Chase office in that locality, that has the information and has the connections and is able to get him started.

I think it is very important that this legislation go forward and permit these institutions, with their impressive networks, to begin taking small- and medium-sized companies by the hand and getting them involved in business in an entrepreneurial fashion. That is the purpose of the legislation.

I am doubtful that some of these other institutions you cited really have that kind of network. They are for the most part very, very specialized in the securities trade. If, however, they felt that they wanted to get into this business and form export trading companies, they would be subjected to the other regulatory provi-

sions of the legislation, and they would have to take their chances accordingly.

Mr. BARNARD. Do you see an expansion of some of the big international distributors? Do you see the further expansion of, say, the Coca-Cola Co., or some of these other companies getting into the export trading business?

Mr. KATZ. I seriously doubt it, Mr. Chairman. There is a natural tendency to branch out into allied lines. I was talking to someone from the Coca-Cola Co., about their new products in international trade, and these are for the most part very closely linked to their original business.

We do want companies that are already established overseas to begin taking more medium-sized and smaller companies by the hand. As I said, we would foresee that some of the large multinational corporations that have important export interests and already have export departments might form trading companies. That is a very important objective of the other part of this legislation, which is clarifying the antitrust provisions to permit them to do so, when in fact such combination does not impinge unfavorably upon the competitive situation at home.

Mr. BARNARD. I have no further questions, Mr. Chairman.

Chairman ST GERMAIN [presiding]. Mr. Wylie?

Mr. WYLIE. Thank you, Mr. Chairman. And may I say, Mr. Secretary, we are indeed honored by your presence here this morning.

I had asked a question a little earlier about the position of the Federal Reserve Board and Treasury, and as I understand it, those two departments have signed off on this legislation with the caveat that an amendment be offered with reference to voting stock ownership.

Are you familiar with that particular amendment?

Secretary KLUTZNICK. I am, generally, yes.

Mr. WYLIE. And would that be generally your position at this time? As I understand it, you were supporting the Stevenson bill as it passed the Senate by a vote of 72 to 0, I believe.

Secretary KLUTZNICK. The administration, of course, has supported the Stevenson bill as it came out of the Senate. Your reference to the Federal Reserve and the Treasury, I assume, refers to discussions that took place over a considerable period of time.

More recently, the Chairman and I have discussed several of these matters. We have not tried in any instance to say that we have all the answers to everything. We think it is more important to get a workable bill that conforms generally to the objectives that have been stated in the testimony, and other testimony, than it is to be picking little nits and gnats about it. Therefore, Mr. Volcker and I have on several occasions discussed this in the hope of arriving at some conclusions. There may be room for proper treatment of any objection that the Federal Reserve has. We have not had any objection from the Treasury after we worked out all of our aspects of this, no more than we have had from the Attorney General. We tried very much, as Mr. Katz has testified, to recognize that this is the United States of America; it is not the Federal Republic of Germany, nor Japan. We do have certain traditions, and we try to live within them.

So, addressing myself directly to your question, naturally we would prefer the bill that the administration has recommended. On the other hand, if any improvements can be made in it, we have never been averse to listening to them.

Mr. WYLIE. Of course, the Federal Reserve is not directly the administration, although the present Chairman was selected by the President.

What I was trying to elicit was the present administration position. You referred to the Justice Department. And at the outset, I am told that the Justice Department opposed this bill, or the bill which passed the Senate, on the basis of antitrust considerations.

Do you know, of your own personal knowledge, now, has the Justice Department also signed off on it so that the administration position is now the Stevenson bill, with the so-called Federal Reserve amendment on voting stock ownership?

Secretary KLUTZNICK. Mr. Wylie, may I take 1 second and merely offer my regrets to the chairman of the subcommittee that I couldn't be here earlier, and to assure you, the only thing that kept me away was the announcement of the steel program, in which I happened to have been cochairman. And I express my regrets that I could not have been here earlier. Now, let me come to the question that you put to me.

At the beginning, there were a number of bills, and the Department of Justice had difficulties with some of them, or most of them. We had a number of meetings. I personally participated in most of the meetings, and in the final meetings, the Attorney General, Mr. Civiletti, and I, and the head of the Antitrust Division, and some of his advisers, and some of my people, sat for a few hours, working out the language that was in the original Stevenson bill—that was passed; not in the original bill, but the bill that was passed.

When the bill came over to the House, the Foreign Affairs Committee attempted to amend some of that language, and we and the Attorney General—that would have made the language looser—and the Attorney General and the Department of Commerce objected to that amendment, and as a result, I think later it was withdrawn.

And the Attorney General did send a letter to the Senate endorsing the bill and also a letter to the Judiciary Committee of the House, pointing out that his Department and our Department had reached a complete agreement on the language of certification that was satisfactory to the Attorney General.

And we tried to keep it within the spirit of the antitrust laws.

Mr. WYLIE. I have been given a note that my time has expired. Thank you very much.

Chairman ST GERMAIN. Mr. Leach?

Mr. LEACH. Mr. Secretary, it seems to me we have before us a bill for which the costs are very certain and the benefits are very unknown. I would like to enumerate some of these costs.

One is that we are going to break the traditional demarcation line between banking and commerce in America, directly in international trade, and indirectly in domestic trade, because companies that trade internationally also market domestically.

Second, we are going to legitimize cartels in an unprecedented way.

Third, we're going to create conflicts of interest that could be extraordinary for financial institutions as they try to treat equally various parties, some of whom will be part of trading companies and some of whom will not.

Fourth, there will be a great advantage for large banks over small banks, the small banks not being able to form ETC's of any magnitude.

The benefits, on the other hand, are very conjectural. We would turn upside down, the ownership structure of America, without providing any significantly new methodology for increased exporting. This bill is no substitute whatsoever for prudent tax concessions and a strong Federal commitment and followthrough to meaningfully improve our export performance.

In this regard, I think it is very ironic at a time when you are coming before Congress and demanding this legislation, that this administration is cutting back its commitment to the Export-Import Bank, which, in my judgment, substantially contributes to our export competitiveness. Whereas this bill is nothing less than a marshmallow of a trade commitment.

Would you care to comment on what appears to be a zigzag course on the part of the administration, that is, willing to jeopardize traditional relationships in the economy, but at the same time cutting back the Export-Import Bank which has been so successful?

Secretary KLUTZNICK. Let me address myself to the last first, namely the commitments of the Export-Import Bank. This subcommittee is aware of the fact that this administration has tried very much to reduce expenditures during this period, sometimes with a bit of success, and sometimes not so successfully, as circumstances overtook it.

At the present time, the President's Export Council, on which I sit, has recommended, and the administration is considering, I hope in a friendly fashion, the plight of the Export-Import Bank, and the need that it has for additional resources. The method by which that will be determined remains to be seen, but it is being explored very carefully.

At times, the Export-Import Bank is on budget; at times, it is off budget. There are many ways in which we may have to move to increase the financing of some of our larger exports. I agree completely with that conclusion. The method by which it should be done, we are presently exploring. Reg Jones, who is the President of the President's Export Council, just in the last 10 days has been in Washington reviewing it, and I hope that as a result of this, circumstances may be such that that zag or zig, whichever you wish to call it, will not be involved in this picture.

But, I have not had the opportunity until now to explain to this subcommittee why even the Attorney General and ourselves and the Senate went for this kind of legislation. We must understand one thing, and I am sure you do, by the question you asked; otherwise, the Export-Import Bank would not have been important in your considerations; that the export potential of this world is changing enormously day by day.

I recall when we had 50 percent of the gross national product of the world, roughly, right after World War II. We today have 25 percent, even though the gross national product is much greater. We helped create the competition which today we meet everywhere we go in the world, which was an act that we should have committed; it helps make for a peaceful world.

We have helped developing countries who have now become our competitors. We now meet competition from Korea, we meet competition from Taiwan, and this is a part of the world scene, and it is not going to get better as distance shrinks more, as communication shrinks more, we can expect increasing competition.

We have done quite well against that kind of competition without any Government stimulation. Let me cite an example. There was a long period of time when it was considered not the best of good taste for the United States to support perfectly legitimate American industry in its bids for foreign government business.

Well, since we have taken this over, we take the view that if a legitimate business is competing against West Germany and Japan and others for business of a friendly country, and their governments are making representations, there is no reason why we shouldn't at least indicate the character of our businesses that are competing there. And it has had a rather salutary effect in the few places we have tried it.

Now, we have explored other ways of stimulating exports. It happens that the largest growing sector in our economy, business-wise, is small- and medium-size business. In the last 6 or 7 years, 6-to-7 million or 9 million new jobs that were created were created in small- and medium-size business. There are some of those businesses that have export potentials and are engaged in exports.

The one thing they lack has been explained in this testimony, is the ability to understand the foreign scene, to work with the foreign scene. Those are complications. And export trading companies will help solve those problems for small businesses that have enormous capacity to change quickly—which big businesses don't have.

So our motivation, if you want to know the reason that the administration supports this, is because it is looking to the most potentially possible developer of export business to find a way that it can facilitate or help.

Now, I must confess, Mr. Leach, that I do not see quite the kind of conclusions that you have suggested are inevitable. They are not inevitable if we have the right kind of antitrust laws, and there is collaboration. They are not inevitable if there is the right kind of approvals and limitation of participation at the banking level. They are not inevitable at all if this is administered as it should be, properly and effectively.

Mr. LEACH. Mr. Secretary, we have a vote on. Your thoughts are very appreciated. I would only make one other observation.

From a legislator's point of view, this particular bill is anything but refined, and when it is said an appropriate Federal banking agency shall do this and that, the name of the banking agency is not even designated because that decision has not been made. No one knows definitely who the regulator will be, let alone what the regulations will be.

In terms of craftsmanship as well as substance, I truly think that we ought to give this a long, careful look, at least from the banking side; accordingly, I intend to support our subcommittee chairman in his efforts to perfect what appears to be a rather unrefined proposal.

Thank you.

Chairman ST GERMAIN. Thank you, Mr. Leach. There is a vote on, Mr. Secretary. We will go over and vote, and be back in about 5 or 10 minutes, and resume.

The subcommittee will stand in recess.

[Recess.]

Chairman ST GERMAIN. The subcommittee will come to order. The Chair would apologize to the witnesses for his absence this morning, but frankly, I have been engaged in conversations and negotiations, and so forth, on the legislation that we are now considering, and it is just difficult to be in three places at once.

Mr. Secretary, I want to welcome you personally to the hearings, and we certainly understand the reason for your absence earlier.

If you had any supplemental testimony you personally wanted to put in the record, you certainly have that prerogative. You can do it now or can submit it in writing.

And I would like to ask a few questions.

The thing that puzzles me is the fact that we have had witnesses from two of the largest—I guess the two largest financial institutions in the country, who indeed have foreign operations that are very extensive.

You take Bank of America. Heavens, two-thirds of their profits come from their foreign operations, so that is rather indicative of their involvement. Yet both Citibank and Bank of America, when I asked them about the guarantees, they felt there should be Government guarantees, because of the fact that there are certain areas or facets of the export trading companies that were new to them, or would be new to them. And there was still a little uncertainty on their part as to how these would function. Now, that is the largest. Those are the largest.

Then we hear testimony about the small, you know, the little old bank in the little old community with the little old company, and that little old bank is going to form an export company for that little old company that is making the whatchamacallits, so they can export them. But that little old bank doesn't have any international operations. And the premise on which this is based is that the financial institution would have the expertise as well as a network of representatives in foreign countries to which they would export.

How do you envision, Mr. Secretary, the function of the smaller banks in this legislation, if it were to pass or be adopted as it was passed in the Senate?

Secretary KLUTZNICK. Mr. Chairman, I just finished attending a session where we were asked how did we envision the future of the steel industry. There were those who said, you know, it is dying, and others said it is living. And my answer is a simple one: The ingenuity of American business is key—don't ever prematurely bury anybody nor prematurely advance some, because it depends upon who the people are and who they are dealing with.

Now, the small banks—the small banks, Mr. Chairman—are not so small in some of these towns today. They may not be the powerhouses that you mentioned, like Bank of America and Citibank, but they have relationships, as I know from personal knowledge, and as you know, with many of the larger banks which are their correspondents. So when they need help and expertise, they quite often get it in their relationships with larger banks.

Beyond that, Mr. Chairman, I think it is my view, from what I have seen, that many of the middle-size banks and large banks have been developing relationships with smaller business, and for good reason. It is a very important sector of our society, and it is a very innovative sector of our society.

I would envision in a nutshell that, whether the bank is large, with a number of small correspondent banks, sometimes numbering into the hundreds, or whether it is a medium-size bank or a small bank, the potential role it plays in an export trading company will depend upon the character of the customer that comes to that bank.

If the export trading company that is authorized is a qualified company with some kind of credit background, almost any bank can work with that kind of client. I think what we are doing here, if I may suggest it, is a wrong approach, there is nothing about an export trading company that should qualify it, if it isn't a well-managed and a well-operated company. That company may well be comprised of persons of experience, but not too much resource, or it may be comprised of persons with much resource but needing the help of banks around the world.

So I think basically what we are doing, and we always do this, is to imagine the worst-case picture. I would assume that the banks are wise enough by now, with the experiences they have had, to not fall into worst-case pictures, which means, when I was in banking, or investment banking, usually, you still counted on the ability and the character of the person who was responsible for the institution that you were lending money to, or with whom you were associated.

Chairman ST GERMAIN. Is that your answer?

Secretary KLUTZNICK. Well, that is the way I feel about it, sir.

Chairman ST GERMAIN. But you know, Mr. Secretary, I know a little bit about banks and banking. I have not been in the business, but I have been exposed to it for 20 years, and my question to you was: the smaller banks, \$500 million—that is not a small bank, that is a good-sized bank—\$500 million, they rank about 180th in the country.

I had a \$500-million banker in the office yesterday afternoon. He was telling me that if he is not taken over by foreign interests—he is concerned about that; it looks like they are raiding him—that he is thinking of getting into the international aspect of banking. He is thinking of it, OK?

Now, I asked him if he wanted to testify about his apprehensions as to foreign bank presence in this country, and he said yes, I will take that chance, even though I know that there might be recriminations—because of the fact that I may make an effort to get into the international area of those banking—by those countries that would be upset with me.

The point is, he is not in the international area.

Then we have a lot of good-size banks a few years ago take some pretty severe losses in the international area. It is a very sophisticated area. Not many banks, even though they have fantastic management on the domestic side, can qualify, can compete in, can succeed in, the international market.

Now, the premise of this legislation is that the banks, the small banks, will form export trading companies in certain communities. And these export trading companies will be of assistance to the manufacturer, because the bank will have, among other things, knowledge of foreign countries through their foreign operations.

Well, if those foreign operations are nonexistent—now, don't tell me they are the correspondent of a large bank, because the larger bank has been informed by their trading companies—they are not going to run the trading company for a small bank, at least I hope not.

I thought that the plan was, or the legislation states, that it would allow as many financial institutions as possible to get into it. But as I say, I look at it and I say, this is ridiculous. There are just going to be a limited number of financial institutions going into this area, maybe 140 or 150 of them. That's it.

Do you disagree with that?

Secretary KLUTZNICK. I would hope you are wrong, Mr. Chairman. I am never so certain about anything, as I go on, that I ever say that you are wrong. But I hope you are wrong.

Chairman ST GERMAIN. Well, I am looking at history and factual situations.

Secretary KLUTZNICK. Well, history is a good prologue. But you can also defeat the future.

Let me just point out one thing to you, sir. I come from a State. I have had something to do with small banks through the development work in which we are engaged. I don't know of a small bank—and I am not talking about \$500 million now; I am talking about \$25 million and \$50 million—that does not maintain relationships for advice and counsel with some major institution.

Chairman ST GERMAIN. I agree wholeheartedly.

Secretary KLUTZNICK. And those major institutions do have foreign departments, in the main. There are some that don't. We don't expect that every bank—it is inconceivable that every bank would be involved in something like this. But I think the suggestion that because the bank is small it wouldn't be involved violates what is happening in small towns in America today.

Many people are returning, not to suburbs but to small towns, and establishing businesses there, some small manufacturing businesses. We see it as a trend in modern America. Those who don't like the city or are fed up with the suburbs are moving back to the smaller towns. In those smaller towns, there are entrepreneurs.

What we are looking for—we keep looking at the bank. What we are looking for are the entrepreneurs who have the courage to go out and open up new markets. They are openable. We have seen small businesses who have the ability to make one or two items that can sell in foreign markets, and sometimes much better than large businesses, because they can adapt their items more quickly, without great meetings of boards or technicians or reports.

I think, sir, that I certainly wouldn't say that I know better or know less, but I would disagree that 140 might be the limit. It isn't worth doing if it is 140. I would think today we have roughly 10 percent of the businesses of America who do any foreign business. It would seem to me that if we set a goal for the next 5 years, and we project that we will have at the end of that period less than an additional 3 to 4 percent of the businesses, we would be underselling the prospects of American industry. I have more confidence in it than that.

The bank is merely the assist. It is not the motivating factor from my point of view.

Now, 3 to 4 percent could mean as many as 10,000 or 12,000 institutions. That could make a decided difference over a period of 5 or 6 or 7 years in the character of our exports and in the success of our trade program. That is the only reason we are here, sir.

Now, if we are wrong we should look at what the costs of being wrong might be. I don't think it is any of the desperate things that we are talking about. If we don't approve an institution that goes into the field unless it is qualified or has the qualifications to meet the standards of an export trading company, if the Attorney General finds no objection to its status in terms of the antitrust law, then it would seem to me that the possibility of failures would be much less because they have gone through a process of being approved.

Now, when it comes to banking, if they get past the nominal percentage that we are using, then they must be approved by appropriate authorities.

Chairman ST GERMAIN. By that you mean 5 percent of capital assets?

Secretary KLUTZNICK. That is right. That has to be approved by appropriate authorities. I would hope that those three processes would flush out the potential failures to a point that is better than normal business practice.

Chairman ST GERMAIN. Tell me, Mr. Secretary, if the legislation were to be adopted without the banking provisions in it, would you approve of that? If those were deleted at this time and put off until a later time?

Secretary KLUTZNICK. I of course am speaking for myself personally. I would think that would handicap the program. If that was all I could get as a beginner, I wouldn't be happy. I think it would make the job more difficult. But I would prefer that to nothing, because I think the situation is so desperate in terms of our export-import relationship.

I would like to take 1 minute on that if you would let me, just 1 minute. I have traveled—since I have been Secretary, I have traveled, and I have been around the world a few times, as I know you have, sir. What we find increasingly is the demand for the United States to import from many of these countries if we are to continue in balance with those countries in exports.

Now, the only way we can continue to take imports and maintain relationships is by measurably increasing our exports. And to give you one example, there is a little country called Hong Kong, a crown colony of Britain. It exports \$32 billion worth of merchandise a year, with 5 million people in that country and with no—

Chairman ST GERMAIN. No minimum wage.

Secretary KLUTZNICK. Well, that is only part of it, because they have to buy—Mr. Chairman, they have to buy all of their materials from some of us to make a profit on some of those purchases. It is amazing. They have to buy everything. They produce nothing for themselves. And they have managed to develop quite an economy.

The point I am making is they do it because they are out selling all the time. We should be selling America a lot more than we are selling it in foreign countries. That is all I am saying. And we need salesmen of the American type.

Chairman ST GERMAIN. I realize that you wouldn't sit there and contend that we could make a big dent in that with an export trading company, because I am sure you would reply not. Tell me this: What would your opinion be if we were to put a 5-year sunset on this, that would state that those companies that have formed would continue in operation after the 5 years if the legislation were not renewed or the authority continued for financial institutions to invest in trading companies?

Secretary KLUTZNICK. I would like to think that one through.

Chairman ST GERMAIN. I wish you would.

Secretary KLUTZNICK. I will. But I am thinking in terms of investment against a certificate that would have only, or could have only a 5-year life.

Chairman ST GERMAIN. Excuse me, Mr. Secretary. Let me restate. Those companies that are formed within the 5-year period would be grandfathered. They would continue. At the end of 5 years, if the authorization or authority were not renewed, you could not form new export trading companies with bank involvement. But those companies in operation could continue.

Secretary KLUTZNICK. Let me examine that one and I would be glad to come back with an answer.

Chairman ST GERMAIN. There's another one that I know you've examined, and that is the Fed amendment that would limit participation to 20 percent unless there were cases where it was felt that larger participation or equity position was necessary—well, just say necessary.

You are familiar with that amendment. What is your thought on that amendment?

Secretary KLUTZNICK. The amendment, as I recall it, also provided that, by appropriate authority, that the amount could be increased.

Chairman ST GERMAIN. Exactly.

Secretary KLUTZNICK. I have no objection to that amendment.

Chairman ST GERMAIN. Does anyone else want to be heard on that?

Secretary KLUTZNICK. The principle we agree on.

Chairman ST GERMAIN. It is just a question of the niceties of the technical language, and I appreciate that fact. But I am just talking about the concept now.

Secretary KLUTZNICK. That is right, the concept, that is all we are talking about.

Chairman ST GERMAIN. Mr. Secretary, going back to my observation and question in our discussion about the smaller banks, the IBA, the Independent Bankers Association—that is a trade group comprised of approximately 7,300 national, State, and commercial

banks, better than 50 percent of the total of such institutions in the country. Their typical members range in assets between \$15 and \$25 million and are located in suburban or rural settings. Many of their constituency nevertheless are also in urban areas. The emphasis of their firms' businesses is heavily domestic. Now, they testified:

Very few Edge Act affiliates are otherwise routinely engaged in international markets. Consequently, the IBA cannot claim to bring here direct expertise on the subject matter of S. 2718, that seeks to strengthen global trade by establishing export trading companies, by permitting U.S. banks to take equity positions in such corporations.

Further, I cannot state here today that the association has ever formally considered the specifics of S. 2718 or any of its predecessor versions or legislative relatives.

This is a statement from the IBA. So the majority, as I said, they are not engaged in international trade, the smaller banks. And I doubt that they would become engaged in it, because it is not their bag, so to speak. It is not an area in which they claim expertise or where they have the adequate staffs.

And getting back to your statement on correspondent relationships. No. 1, some of those little banks have gotten—have had to pick up some loan participations in some LDC's that aren't going too well and other areas like that. So for the most part it is a good relationship, but now and then it bounces.

And as far as the large, Citibank, helping the smaller bank, again with an export trading company, that boggles my mind, unless you are saying that the large bank would also take an equity position in that small export trading company.

Secretary KLUTZNICK. Conceivably, it would have to be approved if it was any sum of money.

Chairman ST GERMAIN. How many financial institutions have indicated to you a desire to participate in export trading companies? We, to the best of our knowledge—research is to the effect that, you know, we have had difficulty finding financial institutions wanting to testify in this area, because they didn't feel that they had the knowledge. And so, as a result thereof, we have had two of the larger banks today, and we hope to have Chase Manhattan.

Secretary KLUTZNICK. They said they had no knowledge?

Chairman ST GERMAIN. No, they didn't testify, as I say. Many other banks my staff has contacted have expressed a desire not to testify. I am wondering how many banks have been in contact with you on this legislation.

Secretary KLUTZNICK. With me personally?

Chairman ST GERMAIN. Or with your Department.

Secretary KLUTZNICK. Well, I have not checked the number, but there are—I have talked the subject over with a number of bankers, let us say 20 or 30 or 40, over the last 7 or 8 months. I haven't found anyone who was quite as negative as what I have heard.

But let us say this: If your judgment is correct, the worst that could happen is that the banks don't go into this business and we have made a mistake. Who gets hurt? I don't agree with your judgment, incidentally. You know, each man is entitled to make a mistake. I have seen too many businesses go forward that most

people thought would never succeed, that I am inclined to feel that that may be our difference here.

Chairman ST GERMAIN. Mr. Secretary, I do hope that you can understand the feelings of many members of this subcommittee with respect to this very, very dramatic change in our banking laws, to wit, that we would allow banks to engage in commerce. You know, that rule against banks engaging in commerce goes back to the days of the Constitution and our Founding Fathers. We had John Heimann sit here last week on the Foreign Bank Act and he went into that in detail, that that has been a hallmark of our banking system. And there are problems.

Look at Germany right now. The German Government is looking very, very closely at the fact that the banks in Germany are so intertwined with industry and businesses, whole directorships and controlling interests in so many firms in Germany. They are thinking very seriously of amending their laws. Were you aware of that?

Secretary KLUTZNICK. I am not only aware of it, but I wouldn't even begin to compare where we sit with where they sit. I mean, the Federal Republic has had an all-pervasive participation of banks in almost everything.

Chairman ST GERMAIN. Correct.

Secretary KLUTZNICK. And we have never had, nor do I think we ever will have, because our country does not look that way.

Chairman ST GERMAIN. Well, the problem here, you see, is the foot in the door.

Secretary KLUTZNICK. Well, you know, I don't know why. The banking laws were amended to provide holding companies. The holding companies could be considered a foot in the door. They haven't been, to my knowledge, substantially abused. Quite the contrary.

Chairman ST GERMAIN. They took a bath in 1972, didn't they, on the REIT's?

Secretary KLUTZNICK. I know something about that bath, Mr. Chairman. That is my business and I want to tell you something. The difference is, one of the leading bankers in America asked me after that bath, what did we do wrong? I said, you put your lack of knowledge together with money. You didn't have the kind of people processing those cases in REIT's that you have in commercial banking. That is a far stretch from having an entrepreneur come in who was a small businessman or a middle-sized businessman and who has to qualify to handle the business of export trading.

The fact is, the number of loans that were made in REIT's without any possibility of a takeout were an invitation to trouble. Look, I have been at the receiving end, the other end of that business, and it was clear that in any recession they had to get hurt.

Chairman ST GERMAIN. Well, I think that, you know the old adage that attorneys have, that only a fool has himself for a client. You know, when you are looking at a loan to yourself, so to speak, are you exercising the judgment, the prudent judgment that you ordinarily exercise when you are looking at a loan to a stranger or to an outsider?

Secretary KLUTZNICK. Well, first of all, these are not totally loans as far as most of these export trading companies are concerned.

Chairman ST GERMAIN. Excuse me?

Secretary KLUTZNICK. I said, as far as most of them are concerned, because most of them are going to be created by entrepreneurs who themselves want to be the owners at one time or another.

Second, what is the exposure of an export trading company as related to the REIT? It is relatively nothing. What do they need in relation to the enormous amounts of money that were put into real estate? That is what you were talking about. This is a business which can start, if it has management, with smaller resources and grows on itself; whereas when you go to a naked commitment to a \$10-million loan, you are committed.

Chairman ST GERMAIN. The witnesses on the first panel, Citibank, as well as Bank of America, stated that in order for this to be successful they would have to have 100-percent ownership. They wanted total control. They also stated that, even with their expertise and total control, they would still want Government guarantees, because there are a lot of unknown factors involved.

Secretary KLUTZNICK. Then they would not have a certificate.

Chairman ST GERMAIN. Why wouldn't they have a certificate?

Secretary KLUTZNICK. Because if they have to have a guarantee from the Government and there is no guarantee available, then they wouldn't be able to operate, would they?

Chairman ST GERMAIN. Well, I think they are talking about the guarantees they would get from the Eximbank. You were here, Mr. Katz, at the time.

Mr. KATZ. Sir, in the testimony it states rather clearly that the guarantees for Eximbank are really only on inventories held by the export trading company and only when no other financing is available. The EDA and SBA financing is only for startup costs, and again subject to very, very severe budgetary limitations. This bill has really no giveaway or guarantee provisions that are worth very much.

We are really looking for an institutional framework and not a financial plum to get this thing going.

Chairman ST GERMAIN. You were here when the two witnesses testified. What guarantees were they referring to?

Mr. KATZ. I do not know. The only guarantee that is actually in the legislation is the Exim guarantee. Instead of an Eximbank loan, they are allowed to guarantee export accounts receivable or export inventories if private credit is inadequate and exports would not otherwise occur. That is what the legislation provides for.

Chairman ST GERMAIN. The SBA and EDA provision for startup costs, would that be available to export trading companies that are wholly owned or where a majority ownership is in a financial institution?

Mr. KATZ. I would assume theoretically, but both EDA and SBA are subject to severe budgetary limitations, Mr. Chairman, and they would only be helping it with startup costs, if indeed there were no other funds for startup costs available.

One of the reasons we want the banks in is to provide in addition to their networks and their expertise, to provide some capital themselves. There is no free lunch for the banks here.

Chairman ST GERMAIN. Well, could it not be stated that the EDA and SBA loans would not be available to financial institutions? After all, there involvement is, as you state, to provide capital. Why should they go to EDA for a grant or to SBA for a low-interest loan, that being the case?

Secretary KLUTZNICK. I haven't read the last statement here, but I can say this to you without hesitancy, I don't think the way the EDA operates today, which is one of our agencies, that there would be any possibility of a loan to a bank for any other purpose than a collateralized loan. It would be 100-percent guaranteed, and I see no reason for that. I really see no reason for that.

Why is the bank in it? I agree with you on that. The bank should not be looking to the EDA—and I can say to you, with the limited resources we have at EDA, and at the moment they are nil because of the fact that the legislation hasn't passed, that I wouldn't begin to contemplate any such thought. And I'm sure Mr. Hall would not think in those terms.

SBA, on the other hand, I don't see how any bank could very well qualify for an SBA loan under present law.

Chairman ST GERMAIN. Well, I would hope not. I would find it very perplexing if they did.

Secretary KLUTZNICK. Me, too. But it would seem that the provision for a small businessman for startup expenses might well be a guaranteed loan.

Chairman ST GERMAIN. If it is a small businessman forming an export trading company, certainly I could agree there. I am all for that.

Secretary KLUTZNICK. That is what is intended.

Chairman ST GERMAIN. Mr. Secretary, we want to thank you for your appearance. I want to apologize again for my having to be in and out of here, and if it appears now, due to what has occurred in the past half hour, that the legislation will still be here after November 4th when we return, we may well want to spend some more time together on this and see if we can sort of reshape slightly the provisions that come under the jurisdiction of this subcommittee.

Secretary KLUTZNICK. I would appreciate the opportunity.

Chairman ST GERMAIN. Thank you. The subcommittee will be in recess subject to the call of the Chair.

[Whereupon, at 1:05 p.m., the hearing was recessed, subject to the call of the Chair.]

[The following material was received by the subcommittee for inclusion in the record:]

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SEP 18 1980

REP FERNAND J ST GERMAIN
2136 RAYBURN HOUSE OFC BLDG
WASHINGTON DC 20515

DEAR CONGRESSMAN ST GERMAIN

CONSUMERS FOR WORLD TRADE, WASHINGTON, D.C., IN SUPPORT OF
OPEN, COMPETITIVE, AND FAIR TRADE, URGES YOU TO EXPEDITE THE
EXPORT TRADING COMPANY BILL-- HR 7230, WHICH BY ENCOURAGING
U.S. EXPORTS WILL INCREASE FOREIGN IMPORTS, THUS BENEFITING
THE AMERICAN CONSUMER BY LOWERING PRICES AND INCREASING OPTIONS
IN THE MARKETPLACE.
SINCERELY,

DOREEN L BROWN, PRESIDENT
SHANA GORDON, EXECUTIVE DIRECTOR
CONSUMERS FOR WORLD TRADE
1346 CONNECTICUT AVE NW WASHINGTON DC 20036 (202)785-4835



600 OLD WILLETS PATH • HAUPPAUGE, LI., N.Y. 11787, U.S.A.

September 24, 1980

The Honorable Fernand J. St. Germain
House Committee on Banking,
Finance & Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Congressman St. Germain:

The President's Export Council and the U.S. Chamber of Commerce both actively endorse and support the trading company legislation that would facilitate the formation of export trading companies.

Recently, the legislation (S. 2718) passed in the Senate by a vote of 77 to 0.

H.R. 7230 now has serious problems in the House, being bottled up in the House Committee on Banking, Finance & Urban Affairs, and more importantly, in the Subcommittee on Financial Institutions, Supervision, Regulation & Insurance. In consideration of our country's unfavorable balance of payments, I urge you to schedule hearings in the near future so that a bill similar to S. 2718 can be reported out of committee for a full House consideration as soon as possible. We need export oriented laws.

Export trading companies could become a convenient, effective and inexpensive export resource, particularly for small businesses.

Very truly yours,

FLAIR MANUFACTURING CORPORATION

A handwritten signature in cursive script that reads "Rita F. Paleschuck".

Rita F. Paleschuck
President

**INTERNATIONAL
BUSINESS
COUNCIL**

SEP 29 1980

401 North Wabash Avenue Suite 538 Chicago, Illinois 60611 Telephone 312/222-1424
International Business Council is the new name for the International Trade Club of Chicago.

September 27, 1980

The Honorable Fernand J. St. Germain
2136 Rayburn House Office Building
Washington, D.C. 20515

RE: Export Trading Company Act of 1980

Dear Congressman St. Germain:

We enclose part A-II of the International Business Council's "OBSERVATIONS AND RECOMMENDATIONS ON: (1) A U.S. GOVERNMENT POLICY IN SUPPORT OF EXPORT and (2) IMPEDIMENTS TO INTERNATIONAL TRADE EXPANSION" as it appeared in the Congressional Record for August 25, 1980.

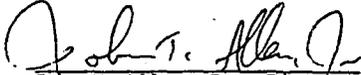
The International Business Council has reviewed, and approved, the concepts embodied in Senate Bill 2718, as passed by the Senate on September 3, 1980. The International Business Council also notes that other, somewhat different, bills are under consideration by the House of Representatives.

While some forms of the proposed export trading company structure might be more effective than others, the International Business Council considers the basic concept of critical importance to the successful performance of small U.S. businesses in world export markets. The International Business Council therefore strongly supports the creation of a viable export trading company mechanism and recommends its passage by Congress in the present session.

The International Business Council (formerly known as the International Trade Club of Chicago) is the nation's largest professional association of international trade executives, with a membership of over 1,000, representing some 750 firms throughout the Middle West and certain other areas of the country, engaged in all aspects of international trade and investment and related services.

Founded in 1919 as the Export Managers Club of Chicago, the International Business Council has been a dynamic force in the emergence of the Mid-American heartland as the nation's foremost foreign trade area, and in the growth of Illinois as a leading, exporting state.

Respectfully submitted,


John T. Allen, Jr., Director

OFFICERS 1966-1967 *President* CLYDE R. DICKY, JR., Arthur Andersen & Co. *Senior Vice-President* CLAYTON YELTZER, Chicago Mercantile Exchange
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 Sereau-Walter Corporation; DONALD P. PHILLIPS, Klein Trade, Inc.; IRELAND J. STEWART, Marmora Corporation; LEONARD WAASDORF, Great Lakes Agency, Inc.
 GORDON R. WAIT, Cwick Air Propts.; GEORGE A. WILCOX, Amoco International Sales Company; RICHARD WOLFF, Cereals Educational Needs
 DENNIS A. ALLRED, Executive Director

II.

A POSITIVE GOVERNMENT POLICY TOWARD
CREATION OF EXPORT TRADING COMPANIES

We believe that the trading company concept is a powerful instrument for stimulating export sales by U.S. business. A trading company pools the products, management expertise and economic strengths of its members. The beneficial effects of pooling these strengths include: increasing opportunities for finding markets for the products and services of the member companies; reducing the costs of sales (including costs of sales forces, documentation and shipping) thus making members' products and services more competitive; and increasing access to credit for financing export sales.

Another aspect of the trading company is that it spreads the risks of exporting over the member companies including the costs of product promotion, insurance and educational programs for the member companies and the public.

Other countries, particularly Japan, have already utilized the trading company mechanism to good advantage, particularly in overcoming the difficulties faced by small and medium sized companies in the export market.

A. Antitrust Implications

A positive government policy in support of such companies must include clear exemption of the company's activities from U.S. antitrust legislation. Existing Webb-Pomerene Associations account for a very small portion of our export trade. And those who use them are primarily large corporations who need their benefits least. Moreover, the Act has been used almost exclusively for fungible commodities rather than services and manufactured goods which account for a large portion of our exports.

One reason for the Act's disuse even by manufacturers is the fear that members of Webb Associations will be subject to antitrust prosecution. Court decisions have not made clear precisely which activities are exempted. Moreover, the bodies charged with antitrust enforcement can not agree between themselves on the scope of the exemption.

B. Financing Support

In addition, the activities of the trading company could be greatly aided by making FCIA guaranty insurance available for drafts that the trading company draws on foreign buyers. Furthermore, barring clear and present danger of commercial loss or serious political upheaval in a country to which an export sale is made neither FCIA nor the Export Import Bank, for which FCIA acts as agent, should be permitted to refuse to underwrite financing of export sales under the guise of politically motivated economic warfare or otherwise implementing particular political philosophies of any given U.S. administration. In summary, since the ExIm Bank and FCIA were created to facilitate export sales by U.S. business, they should not be utilized for political purposes that injure U.S. export opportunities.

C. Recommendations

The International Business Council supports the concepts set out in the proposed Export Trading Company Act of 1980 (Senate Bill 2718) with respect to antitrust exemption, financing and tax benefit provisions. The Club suggests inclusion of FCIA involvement.

SEP 18 1980



LONG ISLAND ASSOCIATION OF COMMERCE & INDUSTRY
425 BROAD HOLLOW ROAD • SUITE 205 • MELVILLE • LONG ISLAND • NY • 11747 • (516) 752-9600

September 16, 1980

Hon. Fernand J. StGermain
Suite 2136
Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman StGermain:

We urge your support of the Export Trading Company Act of 1980 (H.R.7230) and feel that its provisions for bank financing and for cooperative efforts among trading companies are extremely important to the successful prosecution of international business, which is the ultimate aim of the bill.

In addition, we urge that the provisions for DISC (Domestic International Sales Corporation) be included in the bill.

Our World Trade Club is composed of members who are involved daily in international trade and who bring together, in one place, an expertise in this area. We offer our services to you if you need any additional information.

Cordially yours,

A handwritten signature in cursive script, appearing to read 'Gene Egler', is written over the typed name.

Gene Egler
Chairman
LIA World Trade Club
Legislative Subcommittee

Midland Incorporated

WORLDWIDE DEPENDABILITY

P.O. Box 1193 • FORT WAYNE, INDIANA 46801
(219) 432-3533
CABLE: MIDLAND • TELEX: 232486

August 11, 1980

Rep. Fernand St. Germain
Congress of the United States
House of Representatives
Washington, D.C. 20515

Dear Mr. St. Germain:

I am writing you in your capacity as Chair of the House Subcommittee on International Financial Institutions and the pending legislation as it pertains to Export Trading Companies.

Midland, Inc. is an Export Management Company and the writer has been involved in International Trade for 35 years. My experience in this field causes me to look with a great deal of skepticism at the legislation which would provide for Export Trading Companies.

While I am in complete agreement with the goals Congress seeks to achieve thru the Export Trading Company and other legislation designed to encourage U.S. export activity, I seriously doubt that your colleagues have zeroed in on the real source of the current problems and, therefore, I fear that you will fall far short of the mark in trying to solve them.

As you must know, up until a relatively few years ago, we traditionally enjoyed large, favorable trade balances and unlike almost all other developed nations of the world, principally Europe and Japan, international trade was not looked upon as an important factor in our economic well-being. True, when anyone bothered to examine the facts, they soon found that millions of Americans were employed as a result of our export trade; but certainly, with very few exceptions, most domestic manufacturers during the period of 1946 thru 1979, achieved generally favorable profit results without depending upon foreign trade. The Japanese Ministry of Foreign Affairs in their analysis concerning U.S. export competitiveness describes our country as the world's "biggest and most indifferent exporter". My own experience in dealing with literally dozens of small and medium sized American manufacturers, would certainly reinforce that description. Surely, no one can deny that our country has been a reluctant exporter.

If one were to try to isolate the single most powerful barrier to expansion of our export trade, it would be the relative indifference of the American manufacturer to the overseas market. I have found that even those companies that are most active internationally, invariably lean domestically when there is any kind of priority decision to be made. Very few American manufacturers are willing to design for and service foreign markets. A U.S. producer, who will readily

Letter to Mr. St. Germain
August 11, 1980
PAGE TWO

risk hundreds of thousands, if not millions of dollars on new ventures, new products and new markets in the United States, becomes extremely conservative outside our borders. Incidentally, I would recommend your reading the Japanese report, which was prepared by the Japanese Embassy in Washington and is titled, "Analysis of Selected Economic, Legal, Social and Organizational Factors Concerning the U.S. Exports, or Impairing U.S. Export Competitiveness."

The issue then it seems to me, Mr. St. Germain, would be how do we get their attention--that is the attention of the American, small and medium sized manufacturer, to the potential profits available to him overseas. I really do not believe that there is any basis, in fact, for the proposal that says the Export Trading Company is the answer to our problem.

The Export Management Company is, and has been available for many years, to provide the expert services required to enable the small and medium-sized manufacturer to partake of the world market. The Export Trading Company, and specifically the involvement of banks in such companies, is fraught with danger. It seems to me that it sets up a classical conflict of interest when I approach my bank for funds to finance expansion of my export activities in competition with their own Export Trading Company operations. Furthermore, the Export Management Company, because of its very nature, which demands sensitivity and attentiveness to the needs of each overseas market, is in a far better position to provide positive results for the manufacturer, than this new, glamorous, well-financed (and I would guess ponderous and rigid as well), brain child of some large bankers.

There is either great naivete, or a complete lack of understanding, when the proponents of this legislation would have one believe that we should have the Export Trading Company because it has proven to be so successful in countries such as Japan and Germany. First of all, I am not aware of the Export Trading Company's existence in Germany as it operates in Japan, where it seems to be a very unique type of organization, filling the needs of that singular market. One needs to remember that Japan and Germany, as well as other European and Scandinavian countries, have depended, for their very existence, on international trade. There certainly are a great many other more valid factors that have been responsible for the success of those countries, in creating and maintaining a favorable balance of trade.

Finally, it seems to me that there are some things that Congress can do that will stimulate and influence American manufacturers toward greater interest and attention to the export markets of the world.

First of all, the most effective way to get the manufacturer's attention is to provide him the opportunity to earn more profit on the export sale than on the domestic sale. This is done in many ways by our competitors, most of them involving tax advantages or incentives. In some countries certain domestic taxes are waived on merchandise shipped overseas, and in others, different forms of tax benefits are provided the exporter.

Secondly, the overseas offices of the United States Department of Commerce must provide a great deal more service to the exporter than is done currently. In the late 1940's and 1950's, when I first entered the international field,

Letter to Mr. St. Germain
August 11, 1980
PAGE THREE

the Department of Commerce provided exporters a great many facilities and services without charge. Today the services seem to have diminished, but now we pay for them. In comparison, I have found, because we also represent Canadian manufacturers, that the counter-part to our commercial attaches, working for the Canadian government, provide all kinds of specific and special services for the tax payer. These including providing lists of potential customers, market-by-market, personal survey work and arranging for appointments between exporter and potential customers when the exporter visits a particular country. My experience has been that our Commerce people are usually overstaffed and underworked. Unfortunately, however, we are unable to just write a letter to the commercial attache in Paris, describing a new kind of widget that we are manufacturing, sending him literature and price information and asking if he can provide us some assistance in putting us in touch with potential importers for the product.

In summary, therefore, it is my firm belief that it is not the Export Trading Company, or any other cosmetic types of activity which will change the image of the United States as an "indifferent exporter". Instead, it is going to take real profit incentives and meaningful assistance on the part of our staffs overseas, to turn this thing around. I am sure you know that oil prices mean that the United States, just as Western Europe and Japan, now has to be very, very much concerned about its export activity. The problems that have been created in the past seven years, with the advent of OPEC, will not be resolved by some surface-like creation of new organizations which are supposed to provide miracles. ~~---~~

Sincerely,

MIDLAND, INC.



LEONARD M. GOLDSTEIN
President

NORTHWESTERN UNIVERSITY
SCHOOL OF LAW
357 EAST CHICAGO AVENUE
CHICAGO, ILLINOIS 60611

September 12, 1980

The Honorable Peter W. Rodino
Chairman, Committee on the Judiciary
House of Representatives
Congress of the United States
Washington, D.C. 20515

Dear Chairman Rodino:

I would like to express opposition to the antitrust exemption provisions contained in Title II of both H.R. 7230 and S. 2718, the bills providing for export trading companies. The general goal of the sponsors to increase our country's exports is certainly laudable. But claims of serious weakness in our export performance appear to be exaggerated, judging from the analysis released on July 9, 1980 by the Department of the Treasury, prepared by C. Fred Bergsten, Assistant Secretary of the Treasury for International Affairs.

Mr. Bergsten concludes that, according to several indicators, American international competitiveness has not been declining, but actually has improved in recent years, while both Japan and Germany have actually lost ground. Further, contrary to the assertion made in S. 2718, Sec. 202(a)(3), the "real" U.S. share of world exports actually increased during the 1970s, when adjusted for changes in dollar conversion values. Also, our troublesome unfavorable balance of trade, he finds, is due not to poor export performance, but almost entirely to the oil import problem.

Thus, while some legislation designed to increase exports may be desirable, it would be unwise to adopt radical antitrust exemptions on the premise that they are justified by a dismal export experience.

For reasons stated below, I see no proven need for these exemptions.

I believe the methods adopted to be inappropriate and likely to cause serious damage, and I believe that Congress should take a different approach to the whole field.

The reports of the House Foreign Relations and Senate Banking committees on these measures are devoid of evidence on the need for the proposed exemptions. The bills would enable a sweeping antitrust immunity to be granted by the Commerce Department in an undetermined number of industries and fields of economic activity to export associations and export trading companies. Almost the only precedent for such a broad approach is the Webb-Pomerene Act, upon which these bills would erect much greater export exemptions. The need for Webb-Pomerene itself has always been highly debatable, however. While we have other antitrust statutory exemptions, most of these are limited to specific heavily regulated industries, and there is a strong trend today toward reducing their scope or repealing them. Agricultural cooperatives and organized labor admittedly enjoy exemptions not limited to specific industries, but these have been based on national policies of long standing, and are subject to strict surveillance by the antitrust agencies who retain direct enforcement powers against activities falling outside the scope of the exemptions. Also, these exemptions are being reexamined today and in some respects curtailed.

The proposed export provisions would reduce the Department of Justice and the Federal Trade Commission to the mere position of objectors to the grant of a certificate of exemption by the Secretary of Commerce, who may simply ignore the objections. After the grant of a certificate, it seems intended that the antitrust agencies could not directly attack activity falling outside the scope of the exemptions, but instead would first have to file a decertification proceeding. Moreover, for the period when an invalid certificate has

been in force, the exempt firm evidently could not be prosecuted for illegal activity, however egregious a violation it may have committed. This approach would be a grave departure from our antitrust policy and procedures.

It is completely unclear why it is believed that there is need for such a drastic change. Undoubtedly, there are some things which individual firms might like to do in foreign commerce which our antitrust laws discourage or prohibit. But without concrete examination of individual cases, one cannot know whether given activities are defensible, or if so, whether they are essential to good export performance. A detailed comprehensive study demonstrating the need for broad exemption to improve exports has never appeared, to my knowledge. Careful, fully-documented, thorough scholarly analyses, such as that by John Ongman, have reached opposite conclusions.

Such contrary arguments as one sees usually rest on unsupported generalizations, or on individual episodes and hypothetical cases. One may accept the truth of these accounts without conceding their conclusion that since the antitrust laws have interfered in a given case, U.S. exports have therefore suffered. In most instances in my experience, viable alternatives exist which may be pursued by the firm. Antitrust seldom prevents access to a market. On the contrary, its most frequent impact in international trade has been the opposite--i.e., to open up markets for U.S. traders formerly closed off or heavily restricted by international cartels. (I have recently extensively reviewed and documented this important fact.²) In other words, in appraising

1. See Ongman, Is Somebody Crying "Wolf"? An Assessment of Whether Antitrust Impedes Export Trade, 1 Northwestern Journal of International Law and Business 163-218 (1979).
2. In a paper on "International Cartels and Their Regulation" given at a Columbia Law School conference, Airlie House, Virginia, Nov. 9, 1979 (to be published in proceedings by Columbia U. Press.)

the impact of antitrust on U.S. exports, one must balance whatever negative effect there may be in given cases with the positive effects. When that is done, the gains from a strong antitrust policy applicable to our foreign commerce are shown to far exceed the losses.

Undoubtedly, trading conditions in international commerce and in markets abroad involve many difficulties for U.S. exporters. It does not follow, however, that conduct which would otherwise violate the antitrust laws is needed to adapt to these circumstances. The Webb-Pomerene Act now permits horizontal combinations of competitors in export trade, but so few associations take advantage of this exemption that it seems clearly to be wrongly premised. It is sometimes argued that its non-use is due to the limitations in the Act prohibiting restraints of competition in the domestic market, but these same limitations are built into the proposed new acts. Thus, the same problem--if it is one--will continue, unless of course the changed exemption procedure is not really intended to observe these limitations.

As for export trading companies, there is no antitrust barrier inhibiting their formation, any more than the laws inhibit enterprise formation generally. Insofar as the operations of export trading companies are concerned, it is not apparent why they will face more serious antitrust problems than are encountered by the numerous present-day companies already successfully engaged in exporting.

My own direct experience indicates that few instances of antitrust interference with export activity occur which cannot be solved by competent planning and legal advice. The Department of Justice has greatly clarified the whole area with its Antitrust Guide for International Operations (1977). The Guide states that most export transactions are free of antitrust difficulty, and that export activities will be attacked only when they involve significant impact

on the domestic market, or when they interfere with the export opportunities of other U.S. exporters. (Guide, pp. 4-5.) While I think the Guide in a few respects is more lenient than the law itself, for the most part I agree with it, and I think that it should be given far more weight than the proposed bills evidently give it.

More antitrust problems which might be faced by U.S. exporters arise from foreign antitrust laws than from our law. Both European and Japanese antitrust provisions, for example, substantially limit or prohibit various kinds of resale price maintenance, exclusive dealing, tying, and territorial allocation arrangements which exporters might otherwise wish to use. The proposed bills of course will do nothing to reduce the problems created by foreign law.

Adoption of these exemptions will, in my opinion, do serious damage to American interests. For many years, our country has sought to encourage foreign nations to control cartel and other restrictive practices as a means of improving the flow of international trade. These exemptions would signal a serious departure in that respect, and would not only damage our credibility abroad, but would give encouragement to foreign countries to increase, rather than reduce their restrictions in foreign trade, and to take retaliatory action against the very activities we seek to encourage.

Not only would this be bad for trade generally, but it could well do more harm to our own balance of trade than could be overcome by any gain from this legislation. If U.S. citizens have to pay more for their imported goods and U.S. exporters are made to encounter higher barriers to trade erected abroad because of reaction to protectionist-oriented legislation of the kind proposed here, we will all lose, not gain. An example of what may happen more often is the European Common Market Commission's recent grant of an exemption to

a sulphur buying cartel in Europe which has been formed to counteract an American Webb-Pomerene association of sulphur producers.³

Instead of legislation of this kind, Congress would be better-advised, it seems to me, to study thoroughly problems of antitrust in international trade before embracing potentially very costly exemption measures. S. 1010, for example, proposes a commission to study these questions, and I have testified in favor of that bill.⁴ This is in line with the approach recommended by the National Commission for the Review of Antitrust Laws and Procedures with respect to Webb-Pomerene, and it commends itself as the correct way to proceed.

Sincerely,



James A. Rahl
Owen L. Coon Professor of Law

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3. Commission of the European Communities, Press Release, July 24, 1980.

4. Copy of statement on S. 1010.

September 8, 1980

The Honorable Fernand St. Germain, Chairman
 Subcommittee on Financial Institutions Supervision,
 Regulation and Insurance
 B303 Rayburn Office Bldg.
 Washington, D.C. 20515

Dear Mr. Chairman;

On September 3, 1980 the Senate expressed its unanimous support for S. 2718, "The Export Trading Company Act of 1980." Since the bill is now under referral to your Subcommittee, I take this opportunity to provide you with the American Soybean Association's comments on this important legislation.

The American Soybean Association is a national, non-profit, volunteer association of soybean growers and was organized in 1920 to assure the opportunity for a profitable soybean industry. ASA is supported by approximately 20,000 dues-paying producer members and receives its funding from over 470,000 soybean growers who voluntarily invest in the ASA programs through 22 statewide soybean checkoff programs. ASA seeks to improve soybean profitability through its programs of foreign market development, research, and government relations.

In ASA's opinion the "Export Trading Company Act of 1980" will substantially enhance America's export potential for the future. Other exporting nation's, particularly Japan, have utilized export trading companies to establish themselves as dominant exporters. The establishment of large export trading companies in the U.S. should greatly increase the potential for moderate and small companies to participate in the export market; something they find difficult today.

Current laws separating banks and commerce effectively prevents the establishment of export trading companies. Without the participation and equity ownership of banks, it is almost impossible to create and administer an effective export trading company. Providing a limited exception to the laws separating the banks and commerce will allow banks to invest a portion (up to 5%) of its capita; and surplus in an export trading company thereby providing the trading company with the banks skills and resources.

Soybeans are America's largest export commodity with an expected FY1980 export value exceeding \$9 billion. The formation of



Soybeans

American Soybean Association

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export trading companies would expand the potential for even greater export growth in the future for America's soybean industry. With this in mind, ASA urges you to expeditiously consider and report S. 2718 or an identical House bill to the House Banking Committee and also work for its passage when taken up by the full House.

America's 470,000 soybean producers would appreciate your support for the Senate version of "The Export Company Trading Act of 1980."

Sincerely,

Frank Ray
Frank Ray
President

United States Council of the International Chamber of Commerce Inc 1212 Avenue of the Americas New York NY 10036

David L. Grove
President

United States Council

September 22, 1980

The Honorable Fernand St. Germain
The House of Representatives
Washington, D.C. 20540

Dear Congressman St. Germain:

On behalf of the United States Council of the International Chamber of Commerce, I would like to express our views on an issue of vital concern to the U.S. business community: export trading companies. The U.S. Council is a major spokesman for U.S. enterprises in the international marketplace and our membership includes many of the U.S. firms engaged in foreign trade and foreign operations. The Council, therefore, has a strong interest in the expansion of American trade with other nations.

Competition in the world marketplace will be particularly intense in the 1980s. Burgeoning oil-import costs are expected to produce a record United States trade deficit this year; the oil-price shocks of 1979 will leave the non-OPEC world with a 100 billion dollar current account deficit in 1980. Our trade competitors, who are more dependent on imported oil, will be under even greater pressure to improve export performance. And with the OPEC countries close to import saturation, U.S. firms will have to fight hard for every country's non-oil import dollar. At the same time, the recent problems in the auto and steel sectors underlie the need to improve U.S. competitiveness in the international marketplace. Convergence of these pressures signals the beginning of a critical period for the U.S. economy. If it is to meet these challenges, the U.S. must move quickly to bolster its exports. This requires a positive export policy of high priority.

Legislation to facilitate the formation and operation of export trading companies is designed to encourage exports by the many small and medium-sized firms that cannot afford the costs and risks entailed in effective export marketing. This legislation is an important first step toward establishing the necessary new export policy. Indeed, it is probably the only significant export policy legislation with a chance for passage in this session. Therefore, export trading company legislation bears an important symbolic burden at home and abroad: apart from its real economic benefits, it is the first measure of U.S. commitment to a new priority for export policy in this critical period.



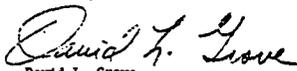
United States Council of the International Chamber of Commerce Inc 1212 Avenue of the Americas New York NY 10036

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A key element in any attempt to promote export trading companies is bank participation. In the Council's view bank participation is essential for the creation of additional and more effective trading companies; these companies need the marketing expertise and equity capital that banks can offer. Legitimate reservations about the participation of banks in commercial activities can be well served by restrictions similar to those in the Senate bill S. 2718 that would limit bank investment in trading companies to no more than five percent of a bank's capital and surplus and would require prior approval of Federal bank regulatory authorities before a bank could acquire a controlling interest. On the other hand, restrictions that would prevent banks from making controlling investments, like the proposed Federal Reserve amendment to the Senate bill, would probably prevent effective bank participation. The greater likelihood is not bank abuse, which can be controlled by oversight and subsequent adjustment, but that legislative attempts to promote export trading companies will have too little effect too late on U.S. exports. The latter outcome is much more likely if banks are denied effective participation in trading companies.

In any case, the measurable impact of such legislation would develop slowly. Unfortunately the U.S. no longer has the luxury of time in trade matters. The prospect of a 33 billion dollar trade deficit in 1980 (on a f.a.s. basis) and a cyclical downturn in U.S. developed-country markets makes it imperative that export trading company legislation be enacted as soon as possible. Accordingly, on behalf of the U.S. Council, I would ask you to consider export trading legislation a special priority for this session and to support prompt House floor action on a trading company bill with provisions that permit effective bank participation.

Sincerely,


David L. Grove
President

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