Union Calendar No. 321

96TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT No. 96-585

REORGANIZATION PLAN NO. 3 OF 1979

NOVEMBER 2, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on Government Operations, submitted the following

ADVERSE REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H. Res. 428]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Operations, to whom was referred the resolution (H. Res. 428) to disapprove Reorganization Plan No. 3 transmitted by the President on September 25, 1979, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

SUMMARY AND PURPOSE

Reorganization Plan No. 3 of 1979 restructures the international trade functions of the Federal Government by expanding the Department of Commerce and strengthening the Office of the Special Trade Representative. The Department of Commerce becomes the focal point of operational responsibilities in the non-agricultural trade area. In addition to its current operational responsibilities for export controls, East-West trade, trade adjustment assistance to firms and communities, trade policy analysis, and monitoring foreign compliance with trade agreements, the Department will be responsible for administration of countervailing and antidumping matters, foreign commercial representation, and implementation support for the Multilateral Trade Negotiation (MTN) agreement. The President has stated that under this plan the principal mission of the Department of Commerce will be fostering the international competitiveness of American industry.

The U.S. trade representative will be responsible for developing and coordinating U.S. policy for international trade and direct invest-

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ment, including import remedies and unfair trade practice remedies, East-West trade policy, international investment policy, international commodity policy, energy trade, and export expansion. In carrying out this responsibility the U.S. trade representative will be advised by the Trade Policy Committee.

The Trade Representative will be chief adviser to the President on international trade policy and shall advise the President on the impact on international trade of other policies of the U.S. Government. In addition, he will have the lead responsibility for the conduct of international trade negotiations, including commodity and direct investment negotiations in which the U.S. particpates.

The Secretary of Commerce and the U.S. Trade Representative will serve, ex officio and without vote, on the Board of Directors of the Export-Import Bank of the United States.

The Board of Directors of the Overseas Private Investment Corporation is expanded to include the trade representative as vice chairman, and as an ex officio, additional voting member. Provision is also made for an additional non-governmental member of the Board.

The President has estimated that implementation of this plan will require an additional annual disbursement of about $300,000 for salaries of the newly created top-level Department of Commerce positions and of their clerical support, and a nonrecurring sum of approximately $600,000 for expenses involved in the transfer of functions provided in the various plans. The estimate of the Congressional Budget Office is included later in this report.

The plan calls for establishing within the Department of Commerce the positions of Deputy Secretary (to replace an abolished Under Secretary position), Under Secretary for International Trade and two additional assistant secretaries, all to be appointed by the President, by and with the consent of the Senate.

The committee supports Reorganization Plan No. 3 as an appropriate use of the President's authority under the Reorganization Act. It is the committee's understanding that the President will issue an executive order to provide further clarification of the role of the trade representative. This plan should serve as the first step in revitalizing our international trade effort. At the very least, it focuses the attention of the Government on the total trade area. It is the understanding of the committee that this includes leadership responsibilities for the formulation of services industry policy. It provides in one Department a focal point for trade activities—from promotion to enforcement—and provides for the trading community a champion in the Government. In order for the plan to have the desired impact, however, it must be carried out by personnel of the highest caliber—possessing personal integrity, great talent, and the capacity for bold and innovative actions.

COMMITTEE VOTE

House Resolution 428 disapproving Reorganization Plan No. 3 of 1979 was ordered reported by the Committee on Government Operations on October 31, 1979, by a vote of 30–1 with a recommendation that it do not pass. The committee, therefore, supports the reorganization plan.

HEARINGS

Hearings on Reorganization Plan No. 3 were held by the Subcommittee on Legislation and National Security October 16 and 18, 1979 at which time representatives of the Administration, the Secretary of Commerce, the special trade representative, and other witnesses testified.

DISCUSSION

The U.S. balance of trade deficit has hit an all-time high. No longer are we immune from the vagaries of the world market place.

Following World War II and the institution of the Marshall Plan, the foreign policy of the United States centered on the redevelopment of countries devastated by the effects of the war. The United States enjoyed a broad sphere of influence in the world and maintained relative economic stability at home.

Those nations which we helped rebuild have now become our rivals not only for the world's natural resources, but as producers and sellers in the market places of the world, as well. That competition is heightened by the active role played by other governments through participation in marketing and financing their own country's business output.

Developing national policies to meet the challenges of international trade in today's world requires new insights and innovative changes. If we do not accept these challenges and begin today to meet them, then we face the very real possibility of continuing in a decline from which recovery becomes ever more difficult. We must operate from a strong economic position in order to maintain a strong political position.

Members of Congress have been grappling with alternatives to eliminate this country's balance of trade deficits. Committees of the House and Senate maintained an intimate involvement in the recent Multilateral Trade Negotiations as they developed. These negotiations, leading to an agreement for reduced trade restrictions and more equitable trading conditions among nations and the ensuing implementing legislation enacted in this country and to be enacted in countries around the world, required and continue to require great cooperative effort. These agreements portend significant advances. However, the gains made can quickly dissipate if positive action is not taken to monitor and enforce the agreements here and abroad, and to encourage and assist our own business community to take full advantage of new trade opportunities.

A requirement that the President submit a reorganization proposal to the Congress was written into legislation implementing the Multilateral Trade Negotiation Agreements signed into law by the President on July 26, 1979.

In late July, 1979, the administration circulated a discussion draft of a reorganization proposal of executive branch trade functions. Opportunities were provided for discussion and changes were recommended. Some of those changes were incorporated in the Reorganization Plan No. 3 of 1979 submitted to the Congress by the President on September 25, 1979.

The plan calls for strengthening and expanding the Office of the Special Trade Representative (to be renamed the Office of the U.S. Trade Representative). The trade representative is named chief adviser to the President, chief trade negotiator and coordinator of U.S. trade policy.

In addition, the Department of Commerce becomes responsible for day-to-day operations. All full-time commercial attache positions abroad are transferred to Commerce from the Department of State with the possibility that other positions may be transferred from time to time. Commerce also receives responsibility for implementing anti-dumping and countervailing duty laws transferred from the Department of the Treasury.

U.S. TRADE REPRESENTATIVE

Trade issues now cut across the jurisdiction of at least 12 Government agencies, all making decisions affecting the national posture relative to international trade. This diffusion has created confusion both for foreign and domestic enterprises, since no single agency speaks for the Federal Government in setting trade policy. The President's plan addresses that problem by establishing the U.S. Trade Representative as the chief American voice on trade matters. As the President's principal trade spokesman, the trade representative will have responsibility for the development of U.S. trade policy. The trade representative, operating from a high-level vantage point and in a position to consider all aspects of the trade question as it touches every facet of our national interest, having as a sole and primary concern international trade issues, will enable the Government to develop for the first time the structure as it relates to international challenges which confront our Nation in trade.

This single focal point for policy guidance will help insure that all our interrelated national concerns, including domestic economic policy, economic development initiative, energy policy, productivity and innovation problems, regulatory problems, foreign policy, international monetary matters, agricultural matters and labor issues, are taken into consideration in developing United States trade policy.

As coordinator of trade policy in the Federal Government, the trade representative will chair the Trade Policy Committee—an inter-agency committee composed of the Secretaries and heads of Government entities having an effect on or affected by trade policies. For example, the Departments of State and Agriculture share responsibilities dealing with trade in agricultural commodities, the Departments of Energy and State share responsibility for international energy issues, and the Department of the Treasury has responsibility for international monetary policy. Serving on the Trade Policy committee will enable all such departments and agencies to have a voice in the development of trade policy. The trade representative, however, will have the ultimate authority to use the information gathered and the views expressed through the committee to develop the policies which will guide those departments and agencies in their day-to-day trade related operations. In areas where major disagreements may occur, the trade representative's decisions may be appealed to the President.

In his role as policy developer and coordinator, the USTR's responsibility will include commodity issues; direct investment matters as they relate to international trade policy; matters concerning the General Agreement on Tariffs and Trade. U.S. policy on trade and commodity matters within the Organization for Economic Cooperation and Development; the United Nations Conference on Trade Development; other multilateral organizations; export expansion; policy research; policy concerning enforcement of anti-dumping and countervailing duties and implementation of unfair trade practice laws; East-West trade; and energy trade issues.

With regard to the recently negotiated multilateral trade agreements and other bilateral and multilateral trade and commodity agreements, policies set by the USTR will guide other government agencies in asserting and seeking to protect U.S. rights won in those agreements.

International direct investment, to the extent it relates to international trade will also come within the purview of the USTR. Such direct investment issues, will include matters relating to direct investment by Americans abroad, multilateral agreements, operations of multinational enterprises, and direct foreign investment in the United States.

U.S. trade expansion policies will also benefit from direct oversight by OMB Director McIntyre testified, "To insure that our export expansion efforts, including the reduction of disincentives to export, are pursued vigorously and coordinated Government-wide, the Trade Representative will have policy oversight of U.S. export expansion activities. The trade representative will become the vice chairman and a voting member of the Board of the Overseas Private Investment Corporation, and a non-voting Director of the Board of the Export-Import Bank of the United States." Further attention will also be given to the potential role of OPIC in support of efforts to increase U.S. export volume. (See appendix 3.)

In addition to the STR's current negotiating responsibilities, the USTR will have negotiating authority of a susbtantially broadened scope, including bilateral and multilateral trade (including East-West trade), commodity, and direct investment negotiations. The trade representative will represent the United States at the General Agreement on Trade and Tariffs (GATT) meetings in Geneva. The GATT committee and working group meetings for implementing the MTN agreements and for other purposes meet almost continuously. It is, therefore, expected that the USTR will maintain a small staff in Geneva to facilitate U.S. participation in these meetings.

In Geneva the USTR will operate in full coordination with other U.S. diplomatic missions overseas, having full understanding of and cooperating with the country-team led by the Chief of Mission at the U.S. Embassy in Geneva.

The USTR will be operating with a relatively small staff—it is expected the maximum figure will not exceed 116. Therefore, it will be imperative that the USTR draw on the expertise and talents of other Government agencies in carrying out his functions.

As principal advisor to the President on overall trade issues, the USTR is expected to take every aspect of our material policy into consideration. This is understood to include the service industry. In fact, the trade issue is all pervasive; under this Plant the USTR will advise the President when actions are contemplated in other areas which have an impact—direct or indirect—on the national interest in international trade. It will also be paramount that the Congress and its appropriate committees be kept fully aware of such actions as they develop. In this respect, it is clear that the USTR still has the statutory relationship to the Congress as spelled out in Section 141 of the Trade Act of 1979 (Public Law 93–618). In this way, it is hoped that trade issues will receive the full weight of attention they deserve vis-a-vis foreign policy and domestic policy considerations.

THE DEPARTMENT OF COMMERCE

The Department of Commerce has long been involved in the international trade sphere. Its activities, however, have not kept pace with the growing need for overseas marketing of goods and services of the United States.

The President, in his message to the Congress, indicated that because the Department of Commerce has the benefit of broad experience in the trade area, other responsibilities are being moved within its jurisdiction. It is our understanding that the administration will work with the Department to revamp its organizational structure. OMB Director Jim McIntyre testified:

> With the addition of the new responsibilities, the various trade and trade-related functions of the Department of Commerce will be substantially reorganized and will be brought together under a new Under Secretary for International Trade.
>
> Related departmental activities in the areas of sectoral analysis, improvement of industrial innovation and productivity and encouragement of local and regional economic development will be linked closely to an agressive trade program. Fostering the international competitiveness of American industry will become a principal mission of the Department of Commerce.

A more streamlined organization, with a new mandate, new incentives and new personnel is expected to accomplish what the Department has failed to accomplish in the past.

In addition to its current responsibilities for administering existing trade operations—export promotion export controls East-West trade, trade adjustment assistance, trade policy analysis, and monitoring foreign compliance with trade agreements, the Department of Commerce receives major new responsibilities for the administration of the countervailing and antidumping duty programs, foreign commercial representation, and MTN implementation.

It is expected to move to the Department of Commerce of countervailing duty and antidumping cases will give these functions high priority within a Department whose principle mission is trade. In the past agencies have arbitrarily set a course of administration of these statutes contrary to congressional intent. Dilatory practices in countervailing duty proceedings, policy changes, failure to adequately countervail, arbitrary failure to collect antidumping duties imposed have been cited as reasons justifying the transfer of these operations.

Also cited for the past deficient administration of these laws have been low priority and inadequate staffing levels. Seventy-five investigator positions are being transfered from the Department of the Treasury to Commerce to handle this function. According to Secretary of Commerce Juanita M. Kreps, there are 130 new positions provided for the antidumping and countervailing duty functions in the Treasury Department appropriations act signed September 29, 1979. Those 130 new positions will come to Commerce from Treasury as a result of the reorganization. A joint Commerce-Treasury/Customs task force has been working on this issue for three months. In order to get a head start on filling those 130 positions by January 1, 1980 when the new antidumping/countervailing duty laws take effect.

The Secretary of Commerce has the final authority whether to accept or refuse agreements regarding the suspension of anti-dumping and countervailing duty cases. This statutory authority cannot be lessened by the USTR's lead role in the negotiations with foreign governments. The authority to suspend investigations and set limits to the agreements or suspension are clearly granted to the Secretary of Commerce in the statutory language of title VII of the Tariff Act of 1930 as provided in the Trade Agreements Act of 1979. Section 5(a)(1)(6) of the reorganization plan provides for the transfer to the Secretary of Commerce the powers of the Secretary of the Treasury under section 617 of the Tariff Act of 1930 insofar as they apply to antidumping and countervailing duty functions. Section 617 grants the Secretary of the Treasury the authority to compromise certain government claims. The issue of whether claims arising under the antidumping and countervailing duty law come within the scope of that statutory provision has never been tested and is for the courts to resolve. Approval of the reorganization plan is not intended as an expression of Congress' view on this issue.

In an effort to instigate an increase in export capability of U.S. business enterprises, the responsibility for commercial representation is being transferred from the Department of State to the Department of Commerce. This transfer comes in the wake of mounting criticism of the failure of many Foreign Service officers in the commerical field to take an active role in assisting U.S. businesses in their efforts to enter the export arena. In addition, a 1977 report of this committee criticized the friction between Commerce Department and State Department personnel which contributes to inefficiency and ineffective export promotion efforts. Moving the full-time commercial representation positions into a Department which has as its primary mission increasing the competitiveness of American industry in international markets is expected to eliminate these criticisms. It is also expected that the flow of information concerning potential export markets from the commercial representatives to American businesses through the domestic field office will be enhanced if both offices are within the same Government agency.

This transfer of approximately 162 full-time positions in over 60 countries and the associated foreign national employee positions involved, will require maximum cooperation between the Department of State and the Department of Commerce to achieve a smooth transition. A Memorandum of Understanding has been agreed to by appropriate officials of the two Departments providing for interagency transfer as appropriate, with staff of the Foreign Commercial Service subject to the same benefits and perquisites enjoyed by Foreign Service officers.

The Foreign Commercial Service will continue to operate with U.S. embassies abroad. In so doing, Commerce Department staff will adhere in principal and, in fact, to the rules of authority prescribed for such missions. The Foreign Commercial Service will be subject to the authority of the U.S. Ambassador in his role as Chief of Mission and representative of the President of the United States. It is, therefore, expected that this transfer of functions between Departments will in no way affect the Ambassador's responsibility for the efficient and effective management of his post or for carrying out the responsibility of the mission. The Foreign Commercial Service will be a part of the country team, with every duty and obligation that implies.

Impetus for the reorganization plan was provided by the MTN agreements, as such the responsibility of the Department of Commerce for implementing support for the MTN agreements is an important function of the Department. In order for the United States to successfully benefit from the progress made in the MTN agreements, adequate staffing must be provided for monitoring the trade activities of other countries so that problems on noncompliance can be quickly discovered and prompt action taken to have the agreements enforced.

The Department will additionally be responsible for an educational program to inform American businesses of foreign market potential and provide the necessary information and encouragement for American businesses to enter the export market. One of the major criticisms of moving international trade functions to the Commerce Department has been the orientation of that Department toward its domestic business constituency. This perception may be true at this time; if so, it is an orientation which the Department must change. Too great protection of domestic markets will effectively smother U.S. export potential, as other governments retaliate with their own protectionist barriers against U.S. imports.

The Commerce Department must develop the new ideas, new programs, and new enthusiasm which are required to stimulate this country's businesses to take advantage of the MTN agreements. This is essential to stop the U.S. balance of trade deficits. Reliable, thorough, up-to-the-minute information and analysis of industrial and service sectors are essential matters for which the Commerce Department is responsible. The Commerce Department must upgrade and streamline its operations in this area. The Department will be responsible for dissemination of relevant and useful material in a businesslike manner to both current and potential exporters. In this regard, old news is no news at all; and representatives of business have said they would fire an employee who did not have the information before the Commerce Department.

The thrust of this reorganization effort is to give high priority to the international trade functions of the Federal Government. The Department must be imbued with that understanding. Employees who are unwilling or unable to accept the urgency of the situation should be invited to find employment elsewhere.

The high priority of international trade in the Federal Government is also emphasized by placing the Secretary of Commerce on the Board of the Export-Import Bank as a nonvoting Director. This move will insure that export promotion policy is taken into consideration when export financing policy is determined.

After careful study of this plan, the committee concluded that it is a worthwhile endeavor to help this Government and this country move our international trade activities to a position of high priority. It provides a firm structure from which trade policies and strategies can be developed; from which trade negotiations with foreign governments can be carried out; from which policy direction can be provided for all agencies of the Government whose activities affect international trade; from which we can deal more effectively with the MTN agreements and other bilateral and multilateral trade agreements; from which problem areas can be discovered and resolved in a more timely manner; and within which our trade laws can be more effectively administered.

The committee, therefore, recommends that the resolution of disapproval, House Resolution 428, be reported to the House with a recommendation that it be disapproved and the President's plan, therefore, be approved.

INFLATIONARY IMPACT

In compliance with clause 2(l)(4) of House rule XI, it is the opinion of this committee that the provisions of this resolution will have no inflationary impact on prices and costs in the operation of the national economy.

OVERSIGHT FINDING

The committee has maintained continuous oversight of the agencies affected by this legislation, but has made no detailed findings and recommendations other than those contained elsewhere in this report.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

The cost estimate prepared by the Congressional Budget Office under section 308(a) and 403 of the Congressional Budget Act of 1974 is contained in the following letter from its director:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 31, 1979.

Hon. JACK BROOKS,
Chairman, Committee on Government Operation, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: At the request of your staff, the Congressional Budget Office has reviewed House Resolution 428, disapproving Reorganization Plan Number 3 of 1979, a reorganization plan to consolidate trade functions of the United States government, as transmitted by the President to the United States Congress on September 25, 1979.

This plan would assign the responsibility for developing and coordinating U.S. international trade and direct investment policy to the Office of the United States Trade Representatives (OSTR). The Department of Commerce (DOC) would assume operational responsibility for implementing the policies developed by the OSTR for all trade functions other than agriculture. The plan would become effective January 1, 1980.

To facilitate these changes, 130 staff positions currently available for the antidumping and countervailing duty activities of the Treasury Department would be transferred to DOC. In addition, all full-time personnel engaged in overseas trade promotion and commercial activities who are presently part of the Foreign Commercial Service in the Department of State would be assigned to DOC to help promote U.S. export sales. All transferred positions would be integrated with DOC's existing trade programs, and would require a one-time relocation expenditure, which the Office of Management and Budget has estimated will cost approximately $600,000 in fiscal year 1980.

The trade reorganization plan would consolidate the expanded trade functions in DOC under a newly created position of Under Secretary for International Trade, and two new Assistant Secretary positions. It is estimated that these three additional senior DOC personnel and clerical support will cost approximately $220,000 in fiscal year 1980, which assumes that the positions would be filled approximately two-thirds of fiscal year 1980. It is estimated that these costs, adjusted for inflation, will rise to approximately $420,000 annually by fiscal year 1984.

Furthermore, in order for the OSTR to carry out the additional responsibilities outlined in the trade reorganization plan, it is estimated that approximately 60 additional OSTR staff will be required. Assuming that these positions would be filled for two-thirds of fiscal year 1980, the estimated cost would be approximately $2.1 million in that year, increasing to $4.2 million annually by fiscal year 1984.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

COMMITTEE ESTIMATE OF COST

The committee agrees with the estimate contained in the submission of the Congressional Budget Office above and presents that estimate as the committee's pursuant to clause 7 of House rule XIII.

SECTION-BY-SECTION ANALYSIS OF REORGANIZATION PLAN NO. 3 OF 1979

Section 1. Office of the United States Trade Representative

(a) Changes the name of the Office of the Special Representative for Trade Negotiations to Office of the United States Trade Representative.

(b) (1) Changes the title of the Special Representative for Trade Negotiations to United States Trade Representative, who will be referred to as the "Trade Representative." The Trade Representative is given primary authority, with the advice of an interagency committee, for developing and coordinating the implementation of international trade policy. This includes commodity matters and also direct investment matters which are related to trade policy. The Trade Representative is designated the principal advisor to the President on international trade policy and given the responsibility to advise the President when other policies impact on international trade.

(2) Delegates to the Trade Representative lead responsibility for the

conduct of international trade negotiations, which include commodity and direct investment negotiations.

(3) Delegates to the Trade Representative, with the advice of an Interagency I Committee, the authority to issue trade policy guidance to departments and agencies. This guidance will determine United States policy in the exercise of the following functions:

(A) Matters concerning the General Agreement on Tariffs and Trade; trade and commodity matters dealt with by the Organization for Economic Cooperation and Development; The United Nations Conference on Trade and Development, and other multilateral organizations; and the assertion and protection of the rights of the United States under all international trade and commodity agreements;

(B) Export expansion;

(C) Policy research on international trade, commodity, and direct investment matters;

(D) Unfair trade practices, to the extent permitted by law;

(E) Bilateral trade and commodity issues, including East-West Trade matters; and

(F) International trade issues involving energy.

(4) Provides that all functions of the Trade Representative shall be conducted under the direction of the President.

(C) The Deputy Special Representatives for Trade Negotiations Are renamed Deputy United States Trade Representatives.

Section 2. Department of Commerce

(a) Provides the Secretary of Commerce with general operational responsibility for major nonagricultural trade functions. These include export development, commercial representation abroad, antidumping and countervailing duty laws, export controls, trade adjustment assistance to firms and communities, research and analysis and monitoring compliance of trade agreements.

(b)(1) Provides for appointment by the President of a Deputy Secretary of Commerce who would be subject to Senate confirmation and compensated at Level II of the Executive Schedule.

(2) Abolishes the position of Under Secretary of Commerce, established under section 1 of the Act of June 5, 1939 (15 U.S.C. 1502).

(c) Provides for appointment of an Under Secretary for International Trade who would be subject to Senate confirmation and compensated at Level III of the Executive Schedule.

(d) Provides for appointment of two additional Assistant Secretaries who would be subject to Senate confirmation and compensated at Level IV of the Executive Schedule.

Section 3. Export-Import Bank of the United States

Makes the Trade Representative and Secretary of Commerce members of the Board of Directors of the Export-Import Bank, serving ex officio and without vote.

Section 4. Overseas Private Investment Corporation

(a) Makes the Trade Representative an ex officio, additional voting member and Vice Chairman of the Board of Directors.

(b) Provides for the appointment by the President, subject to Senate confirmation, of an additional person from the private sector to a three-year term as a member of the Board of Directors.

Section 5. Transfer of Functions

(a)(1) The following functions of the Secretary of the Treasury, the General Counsel of the Department of Treasury or the Department of Treasury are transferred to the Secretary of Commerce:

(A) This sub-paragraph transfers to the Secretary the authority to provide advisory rulings and final determinations pursuant to section 305(b) of the Trade Agreements Act of 1979 on whether an article is eligible for waiver, by the President, of discriminatory procurement laws (e.g. the Buy American Act) under section 301 of the Trade Agreements Act. The Secretary of Commerce is to perform this function in consultation with the Secretary of the Treasury.

(B) This sub-paragraph transfers national security import-related investigations under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862);

(C) This sub-paragraph transfers the administration of the countervailing duty and antidumping unfair trade practices provisions, as provided in section 303 and title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1303, 1671 et seq.). While the Secretary of Commerce will be responsible for determination under the countervailing duty and antidumping statutes, the Customs Service of the Department of Treasury will continue to assess and collect antidumping and countervailing duties as directed by the Secretary of Commerce, as well as accept bonds or other security as deemed appropriate by the Secretary of Commerce. In performance of these functions, the Customs Service will, upon the request of the Secretary of Commerce, furnish related records.

(D) This sub-paragraph provides that any protest, petition, or notice of desire to contest (as provided by sections 514, 515, and 516 of the Tariff Act of 1930) filed before the effective date of Title VII of the Tariff Act (as added by Title I of the Trade Agreements Act of 1979) shall be handled by the Secretary of Commerce under the procedures in effect prior to the Trade Agreements Act of 1979.

(E)–(H) Sub-paragraphs (E) through (H) transfers a number of technical and conforming provisions relating to the antidumping and countervailing duty provisions transferred by sub-paragraph (C).

Sub-paragraph (E) transfers a provision (section 318 of the Tariff Act of 1930, 19 U.S.C. 1318) which provides that whenever the President declares an emergency to exist by reasons of state of war or otherwise, he may authorize the Secretary of the Treasury to extend the time period prescribed for the administration of any act, and to waive duties with respect to the import of certain emergency supplies. The responsibility transferred by this sub-paragraph is to be exercised in consultation with the Secretary of the Treasury.

Sub-paragraph (F) transfers a provision 502(b) of the Tariff Act of 1930; 19 U.S.C. 1502(b) which deals with reversal of the Secretary's rulings on appraisal of imported merchandise and classification and assessment of duties thereon. It also transfers a section (502(a) of the Tariff Act of 1930; 19 U.S.C. 1502 (a)) which provides authority to issue regulations and disseminate information for appraisal and classification purposes. Such authority is to be exercised in consultation with the Secretary of the Treasury to the extent the Secretary of the Treasury has responsibility.

Sub-paragraph (G) transfers a provision (section 617 of the Tariff Act of 1930; 19 U.S.C. 1617) which authorizes the Secretary of the Treasury to compromise claims arising under the administration of the countervailing duty and antidumping provisions.

Subparagraph (H) transfers a provision (28 USC 2632 (e)) insofar as it relates to judicial review in the Customs Court of actions taken by the Secretary of the Treasury in regard to antidumping and countervailing duty petitions under section 516(A) of the Tariff Act of 1930 (19 USC 1516 (a)). 28 USC 2632(e) provides that when the United States is an adverse party in an action in the Customs Court, service of the summons is upon the Secretary of the Treasury.

(2) Paragraph (2) of sub-section (a) provides that the Secretary of Commerce shall consult with the Trade Representative regularly concerning the administration of the countervailing duty and antidumping laws and regarding any substantive regulation proposed to be issued to enforce such functions.

(b) (1) This paragraph of sub-section (b) transfers to the Secretary of Commerce all trade promotion and commercial functions of the State Department that are (a) performed in full-time overseas trade promotion and commercial positions; or (b) performed in such countries as the President may from time to time designate.

(2) To carry out the transfer of commercial functions from the Department of State to the Department of Commerce, this paragraph authorizes the Secretary of Commerce to utilize Foreign Service personnel.

(c) This sub-section transfers to the President the function of submitting to Congress a quarterly report on trade between the United States and nonmarket economy countries. This function was formerly performed by the East-West Foreign Trade Board under section 411(c) of the Trade Act of 1974.

(d) This sub-section transfers to the Trade Representative the Department of State's Fiscal Year 1980 appropriations for representation of the United States concerning matters arising under the General Agreement on Tariffs and Trade and trade and commodities dealth with under the auspices of the United Nations Conferences on Trade and Development.

(e) This sub-section transfers to an interagency committee the functions of the East-West Foreign Trade Board under section 411(a) and (b) of the Trade Act of 1974 (19 USC 2441 (a) and (b)). These functions include monitoring East-West trade and receiving certain reports on technology exports to nonmarket economy countries.

Section 6. Abolition

Abolishes the East-West Foreign Trade Board.

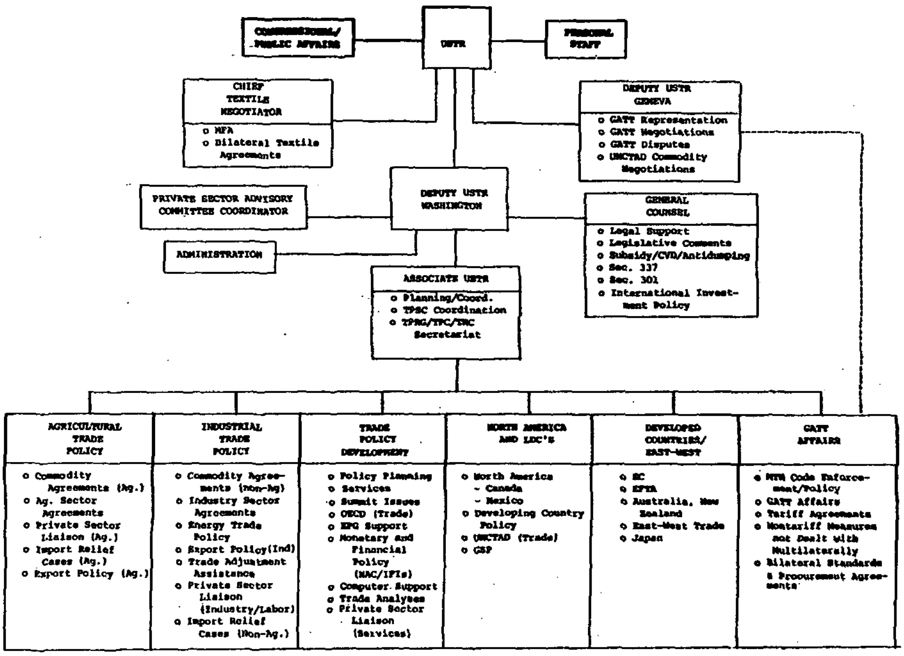
Section 7. Responsibility of the Secretary of State

Emphasizes that nothing in the reorganization plan is intended to detract from the responsibility of the Secretary of State for advising the President on foreign policy aspects of international trade and trade-related matters.

APPENDIXES

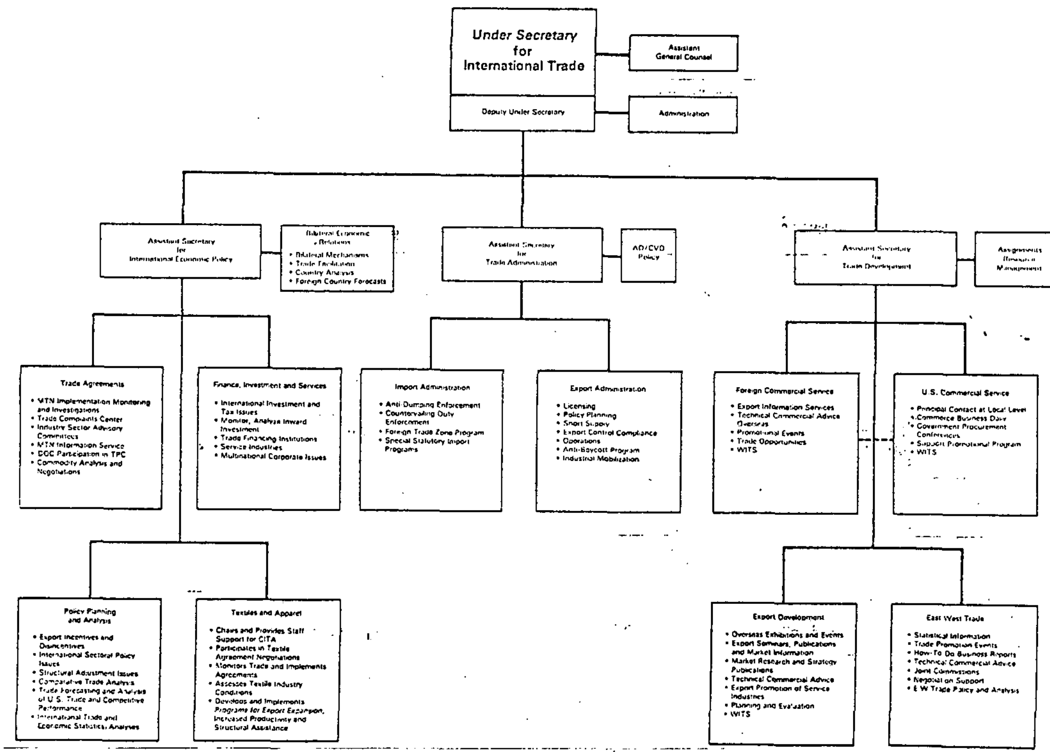
APPENDIX 1

Proposed Organization of the Office of the U.S. Trade Representative



APPENDIX 2

Proposed Trade Component of the Department of Commerce



APPENDIX 3

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
Washington, October 29, 1979.

Hon. JACK BROOKS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BROOKS: As you are aware, the trade reorganization proposal now before the Congress will make the U.S. Trade Representative the Vice Chair of the Board of Directors of the Overseas Private Investment Corporation.

I recognize the significant impact of U.S. foreign direct investment on the generation of U.S. exports, and the relationship of the OPIC programs to the Government's efforts to increase the volume and value of U.S. exports. I will of course have in mind the impact of OPIC's activities on U.S. exports when participating in OPIC affairs. I intend to participate actively in the affairs of the agency.

I expect to work closely with other senior officials of the Administration next year when the status of OPIC is reexamined in connection with the transmission of new authorizing legislation, particularly in terms of the impact the legislative options would have on this country's international trade position.

Sincerely,

REUBIN O'D. ASKEW.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 29, 1979.

Hon. JACK BROOKS,
Chairman, Committee on Governmental Operations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, Reorganization Plan No. 2 of 1979 made the Director of the International Development Cooperation Agency the Chair of the Board of Directors of the Overseas Private Investment Corporation. Reorganization Plan No. 3 of 1979, now before the Congress, provides that the U.S. Trade Representative shall be Vice Chair of the OPIC Board.

In the course of Congressional consideration of the foreign assistance and trade reorganization proposals, concerns have been expressed about the status and mission of OPIC. I recognize the significant impact of U.S. foreign direct investment on the generation of U.S. exports, and the relationship of the OPIC program to the Government's efforts to increase the volume and value of U.S. exports.

The Administration will be transmitting new authorizing legislation for OPIC early next year. I assure you that in preparing that legislation, we will give careful consideration to the relationship between the OPIC program and the Government's efforts to increase the volume and value of U.S. exports, as well as to the development concerns expressed in the OPIC legislation enacted last year.

I appreciate your continuing cooperation in the trade and other reorganization efforts.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY,
Washington, D.C., October 29, 1979.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, Rayburn House Office Building, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As Director of the International Development Cooperation Agency, I serve *ex officio* as Chair of the Board of Directors of the Overseas Private Investment Corporation. As you know, the trade reorganization proposal now before the Congress will make the U.S. Trade Representative the Vice Chair of the OPIC Board.

I recognize the significant impact of U.S. foreign direct investment on the generation of U.S. exports and the relationship of the OPIC program to the Government's efforts to increase the volume and value of U.S. exports. I will of course have this in mind when considering projects and policy issues that come before the OPIC Board. In making recommendations to the President on matters concerning OPIC, I will consider the impact OPIC has on international trade as well as on U.S. development policy.

I want to assure you that I intend to work closely with the Trade Representative to see that OPIC does all it can consistent with the laws governing OPIC, to promote expansion of exports from the United States. I shall afford full consideration of his views on the trade aspects of issues coming before the OPIC Board.

Cordially,

THOMAS EHRLICH.

ADDITIONAL VIEWS OF HON. FRANK HORTON, HON. ROBERT S. WALKER, HON. ELLIOTT H. LEVITAS, HON. ARLAN STANGELAND, HON. LYLE WILLIAMS, HON. M. CALDWELL BUTLER AND HON. JIM JEFFRIES

We support Reorganization Plan No. 3 of 1979 regarding trade reorganization for several reasons. Foreign trade is important to our Nation's economy. During the last 10 years, U.S. exports have more than quadrupled to $143 billion in 1978. We export about 16 percent of everything we grow, manufacture, or mine. And, perhaps most important, some 4.3 million American jobs depend on U.S. exports. Unfortunately, there are some recent problems. Last year the United States ran a record deficit of $28.5 billion. In the manufacturing goods area, the United States dropped from a $20 billion surplus in 1975 to a deficit of almost $6 billion last year. This must be corrected and can be corrected. The United States has approximately 250,000 manufacturing firms, but only 25,000 are exporters. It has been estimated that this figure could double if they tried, or were encouraged.

There is no question in our mind that as a first step toward turning that deficit back to a surplus, the trade functions of our government must be reorganized into a more rational structure. Approximately one dozen departments and agencies in the Federal Government are currently responsible for some aspect of trade. As a consequence, no one is really in charge. Under Reorganization Plan No. 3, there is little doubt that the Special Trade Representative will be in charge of trade policy, coordination and negotiations. And, it is particularly pleasing to see that one of the new mandates of the Department of Commerce will be for export promotion.

While these improvements are significant, it could be wrong to view this plan as a panacea. There are some serious potential problems with the proposal and these are:

(1) *Splits "policy" from "implementation."*—Undoubtedly the greatest concern with the plan was that it split trade "policy" from "implementation" with the former in the new Office of the U.S. Trade Representative (USTR) and the latter in the Department of Commerce. This could cause problems with the policy makers blaming the implementors and vice versa.

(2) *Too few personnel in USTR.*—Another problem that could arise is too few personnel at the new USTR. There will be a staff increase from 59 to approximately 116; however, whereas the old USTR was in charge of just the GATT talks, the new USTR will be in charge of all negotiations, plus all trade policy and coordinating functions. The Chairman of Trade Subcommittee of the Ways and Means Committee has testified that a minimum of 130 to 150 personnel are needed.

Without adequate personnel, USTR simply will not have the resources to perform all the awesome tasks assigned to it by the

President in his message. Under questioning, it was revealed that USTR will rely on line agencies for policy studies and negotiating, which could prove self-defeating in the long run. That is, while USTR will nominally be in charge, without adequate personnel, it could be that the line agencies will be more powerful than generally perceived or even intended.

(3) *No explicit functions transferred to USTR.*—It should be pointed out that although the new USTR is given many new and far ranging responsibilities in the message and even the actual plan, no explicit functions are transferred.

(4) *No "economics" or "efficiencies."*—Finally, it should be pointed out that there are no economies or efficiencies from this proposal. Since there are at least a dozen departments and agencies involved in trade matters in the Government, it is unfortunate that a greater attempt was not made to find economies and efficiencies that surely must exist in all those agencies involved.

However, despite these problems (and it should be pointed out that many of them are "potential" problems), we do support the plan as a good, positive "first step."

FRANK HORTON.
ROBERT S. WALKER.
ELLIOTT H. LEVITAS.
ARLAN STANGELAND.
LYLE WILLIAMS.
M. CALDWELL BUTLER.
JIM JEFFRIES.

DISSENTING VIEWS OF HON. PAUL N. McCLOSKEY, JR.

While I am supportive of the administration's proposal to upgrade its foreign trade efforts and organizational structure, it is almost outrageous that the present plan ignores one of the most basic elements of our foreign trade program, namely the maritime aspect of trade. Well over 95 percent of our trade moves on ocean-going vessels; thus our maritime program is inextricably bound to our trade program. Another factor in this development of policy which is equally, if not more shocking, is the fact that the President organized an interagency task force to study the U.S. maritime program, and arrive at a comprehensive policy and failed to include the special trade representative in that group. That task force undertook a 2½-year study of our program (or lack thereof), and yet no representative of the Office of the Special Trade Representative was even in contact with the task force, much less participating in the working of that group. Therefore, when the President transmitted the report of the task force to the Congress in July of this year, it came to the Congress without the input of the principal trade advisor to the President of the United States. This represents a continuation of the shocking disregard for the interrelationship between our maritime program and our trade program, which has persisted for the duration of the current administration and those which preceded it. The results of this governmental myopia are graphically illustrated in a study commissioned by the Department of Transportation which found that "ocean line freight rates are 30-percent higher for outbound commodities than for similar inbound commodities on the same trade route" and further, that with respect to 46 commodities representing one-third of the value of U.S. exports, "ocean freight rates paid by U.S. exporters are over 100 percent greater than those paid by exporters from an alternative source country to a third market." [emphasis added] In the case of Japan, with respect to 11 commodities, U.S. exporters paid three times the freight rates of their Japanese competitors.

FREIGHT PREMIUMS PAID BY U.S. EXPORTERS RELATIVE TO COMPETING FOREIGN EXPORTERS

Country	Number of commodities sampled	Percent premium paid by U.S. exporters compared to exporters from this country
Japan	11	302
Canada	6	98
West Germany	22	79
United Kingdom	3	68
Italy	1	65
Brazil	1	60
Netherlands	3	38

Source: Booz, Allen and Hamilton, Inc., "A Study of Ocean Rate Disparities," Final Report, June 1978.

The U.S. generates 25 percent of the world import-export commerce, yet only 5 percent of our foreign commerce is carried on U.S.-flag vessels. We have seen a continual decline in our ability to move our imports and exports on U.S.-flag vessels, and this situation will not be reversed until the maritime program of the United States is elevated to its proper position in our government. We must also centralize the policy function for our maritime program in one office to replace the fragmented approach whereby virtually every Department and Agency of the government has some role, either legislatively mandated or unilaterally usurped, with the resulting chaos with which we have contended for the past several years.

In order to rectify this situation, as well as reform our entire maritime program, Chairman John Murphy of the House Merchant Marine Committee, Congressman Gene Snyder, and I have introduced a massive piece of reform legislation, H.R. 4769, which has been the subject of extensive hearings (some 12 days to date). As a key element of our legislation, we have included a title which requires the President to submit a reorganization plan to the Congress which would have the effect of transferring to a new Deputy Special Trade Representative for Maritime Affairs all policy responsibilities for both the regulatory programs (currently in the Federal Maritime Commission) and the promotional programs (currently reposed in the Assistant Secretary of Commerce for Maritime Affairs). This proposal is consistent with the philosophy of the pending Plan, inasmuch as it would transfer policy formulation to the Office of the Special Trade Representative, with the Department of Commerce and the Federal Maritime Commission positioned to implement that policy.

When we became aware of the President's proposal in late July, we had the staff of the Merchant Marine Committee contact the staff at OMB which was finalizing the plan now before us to seek inclusion of our maritime policy transfer in this proposal. When we receive the current Plan in final form, it was immediately obvious that the efforts to include maritime policymaking in this Plan were unsuccessful.

We then wrote OMB Director Jim McIntyre on October 12, urging him to consider inclusion of the vitally important maritime component in the reorganization plan. Thereafter, on October 16, Mr. McIntyre appeared to testify on the reorganization plan. Mr. McIntyre conceded that the President's policy on maritime reform and trade policy reform were similar and consistent with President Carter's campaign positions in 1976 when he promised:

> Devising and implementing a national maritime policy which would include:
>
> (a) A commitment to a higher level of coordination of the diverse subcabinet activities involved in maritime policy (such as through the appointment of a marine affairs advisor to the President who would serve as a member of the NSC)

During that same period, Candidate Carter promised, that if elected, he would "issue a comprehensive paper on our overall program for returning our Nation to its No. 1 status as a Maritime Nation." That "comprehensive paper" was sent to the Merchant Marine Committee on July 25 of this year, and contained the following language:

> Perhaps most importantly, the Federal Government itself must begin to address maritime problems in a more unified and coherent way.

In his remarks accompanying the current Reorganization Plan, the President used the following phrase:

> . . . current arrangements lack a central authority capable of planning a coherent trade strategy and assuring its vigorous implementation.

The President's philosophy, as articulated in several instances cited above, reflects an awareness that our trade policy is sorely in need of reform and that our maritime trade policy is similarly in need of the designation of a central authority to formulate and carry out U.S. maritime policy.

Maritime policies are inherently part of our trade policy. Without protecting a strong U.S. merchant marine, we cannot assure our exporters against paying exhorbitant rates.

Since the administration has been remiss in not including the maritime trade program in this particular plan, the administration should be aware that we intend to press forward on this matter in the form of the Omnibus Maritime Reform bill, H.R. 4769, and we will be actively seeking the administration's support for enactment of this legislation.

PAUL N. MCCLOSKEY, JR.